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The American Prison System

JESSE P. WEBB

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The
AMERICAN
PRISON SYSTEM

By

JESSE P. WEBB



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THE
AMERICAN PRISON SYSTEM

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You may not agree with the contents of this volume; however it is filled with facts which you may prove to your own satisfaction if you will take the time to thoroughly investigate court procedure and prison statistics in your State.

Capital punishment is no deterrent to murder. In States where the extreme penalty has been abolished, homicides have been reduced to a minimum, while in States still using the chair and the gibbet, murder is indisputably on the increase.

Teach men and women how to live and then give them conditions that will enable them so to live, and there will be little use for penal institutions. But teach them by example how others live, and make it impossible for them to enjoy such life legitimately, and they will strive to obtain it illegitimately.

—*Dr. Warren.*

FOREWORD.

Of him who hopes to be forgiven, it is indispensably required that he forgive. On this great duty eternity is suspended, and to him that refuses to practice it the throne of mercy is inaccessible, and the Saviour of the world has been born in vain,—Dr. Johnson.

The quality of mercy is an absent factor insofar as its application to penal conditions is concerned. There exists a singular, relentless attitude on the part of the law toward the offender that curbs all hope of regeneration ere it is born, breeding a defiant, stubborn nature that results in no good.

An exhaustive treatment of the American Prison System would fill many volumes; every volume a tribute to the revengeful creed of society; every chapter a damning indictment of a humanity, which, through its colossal ignorance, has fostered, at an enormous expense, a degenerative, crime-breeding, soul-killing prison system: every paragraph a direct refutation of the medieval principle that punitive measures are a deterrent to crime and protection to society. It would tell a story of brutality, the heartlessness of which has not been equalled since the days of the Spanish Inquisition. The tortured bodies of the System's victims rise in silent, ghostly judgment o'er every generation past, but the mangled souls and rotted lives of the sons and daughters of this generation, defiled and lost to all hope of redemption by contact with our code of vindictive justice, is the evidence on which society is now condemned.

To put the gist of this immense subject within the compass of one volume is no easy task. But it has been accomplished. "The American Prison System" is the most able and comprehensive presentation of the subject yet pub-

lished. Free from exaggeration or prejudice, it is an effective, impersonal treatment of a personal subject. The author and his writings have been known to me for years, but despite our personal acquaintance and my knowledge of his ability, this result of his labor has been a surprise. Years of study and actual contact with conditions have made him an authority on penological affairs; his previous writings have played no small part in the creating of prison reform and the correction of abuses. No writer was ever more interested or effective, with a greater breadth of knowledge or mastery of a subject than is displayed by him in this timely and much-needed *critique* of the rottenness of the inside workings of the most vital problem confronting society today.

The imperative need for a radical change is obvious, for until the dormant conscience of mankind is aroused to its necessity, those unfortunates who fall into the hands of the law will still be sacrificed in the soul consuming flame of the System, helpless victims of a nation without a heart.

But when the present idea of the need for inhuman treatment of the offender has passed into the limbo of forgotten creeds, and the quality of mercy and common sense becomes a part of the spirit of humanity, the change will be due to the influence of such books as "The American Prison System." And so, in the name of those who have suffered through our ignorance; on behalf of those who will benefit through our enlightehment; for all of us who are learning the divine beauty and wisdom of forgiveness as our Father taught, I say to him, "I thank you."

A. J. FREEMAN

It is sometimes a hard matter to be certain whether men do wrong intentionally, for their actions are often done with a reference to circumstances; and one must be thoroughly informed of a great many things before he can be rightly qualified to give judgment in the case. To judge is to see clearly, to care for what is just and therefore to be impartial; more exactly still, to be disinterested, to be impersonal.

Laws seldom interfere with the enterprises of the rich and great; they strike the feeble, who ought, on the contrary, to be protected.

-Author Unknown.

American law has no heart. It does not embrace common sense in its enforcement, and its dealing with the criminal class is farcical in the extreme. Centuries of failure to the *n*th degree is conclusive proof that something human, combined with common sense, must be woven in our tangled mass of contradictory law, before justice may be expected, or society receive its due protection.

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American law allows circumstantial evidence to send men to prison and the gallows. Many an innocent man has been hanged on circumstantial evidence, and every penitentiary in the country has from one to one hundred innocent men doing time on the strength of such evidence. Do you believe in that brand of justice? Is it justice?

INTRODUCTION

Many volumes have been published by self-styled, theoretical criminologists regarding the law violator and prison affairs, but to one who has lived the life, there seems to be something lacking, both in contents and deductions.

Who is better informed regarding the fallacy of the American Prison System than one who has lived conditions as they actually exist?

It was just such a question that induced this attempt to put before you the result of ten year's actual service in the ranks of the grey brotherhood, and while the volume may not shine as a literary gem, yet you will find many truths which you ought to know, and food for thought which may, perhaps, give rise to action.

It is not an appeal for sympathy—far from it; we have had too much sympathetic slush. It is a statement of concrete facts built on a foundation of truth, appealing to your common sense, and if it serves the intended purpose of awakening the student mind, I shall be well repaid in the knowledge that, once awakened, the American public will act for the best of all concerned.

J. P. W.

IN FULL APPRECIATION OF THE GREAT WORK THEY HAVE ACCOMPLISHED THIS BOOK IS DEDICATED

TO

COL. B. K. LAWSON

Who blazed the trail for the New Penology in the Oregon State Penitentiary

TO

CAPT. CHARLES A. MURPHY

Who widened the trail under great handicap

TO

DR. R. E. LEE STEINER

Who smoothed the road to greater possibilities

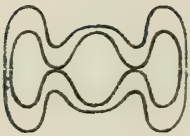
TO

LIEUT. LOUIS H. COMPTON

Who is daily proving the fallacy of the old System

CHAPTER I

THE SYSTEM



CHAPTER I

THE SYSTEM

VERY YEAR in these United States something like 500,000 human beings are sent to jails, workhouses, reformatories and penitentiaries. Every year almost as many are released, of which nearly thirty per cent drift back into prison. Why? Because the American Prison System is an absolute failure.

When I say an absolute failure, I mean it in every sense of the word. There is not one lasting, redeeming feature in the whole system, moral or economic. From a financial standpoint it is ruinously expensive; from a moral viewpoint, it wrecks humanity, body and soul, directly reverse to a law that is supposed to be reformative rather than punitive, a theoretical myth.

The humiliation and degradation of imprisonment, with all its attendant ramifications enveloping the innocent more than the guilty in the propagation of more crime, is in itself sufficient punishment without addition of further brutality heaped upon the head of the unfortunate, as practiced in most prisons of today, for not only does the penniless man receive scant attention in court, but after conviction and sentence, his persecution continues unceasingly while in prison, and indefinitely after release.

A rather broad assertion, to be sure; however, if you will continue through this allopathic volume you will lay it down thoroughly convinced that something is radically wrong with the American Prison System. You will also find a remedy for many of its ills, based on common sense, although it is freely admitted that such remedies as a whole, cannot be successfully applied until the System is fully relieved of political influence. No claim is made to a remedy for the cause of crime, aside from a general revolution in social conditions, as there is no remedy that will cure potential human nature. Every male child born in the United States is a potential President; every child born is likewise a potential criminal, hence the non-existing infallible remedy for the cause of crime, But, I do insist that much of the damning influence resulting from the present system, can and should be overcome, to the betterment of all concerned, and remember, the American Prison System is the concern of all.

First, consider the cost of feeding, clothing and housing this vast army of a half million bits of humanity, of whom there are over 100,000 continually under care at public expense. It is an enormous drain of which the average taxpayer is ignorant for the simple reason he has not questioned this item of expense—failed to count the change

when the waiter presented the bill—an expense for which he does not get value received in the reduction of crime, such as his money is supposed to buy. Rather, he contributes to the propagation of more crime in the factory he supports.

A merchant conducting his business with as little attention toward profitable results as most penitentiaries handle their derelicts, would become bankrupt in the shortest possible time. To be sure, there are one or two States commercializing their convicts, returning a few dollars profit to the commonwealth, but in nearly all institutions, little or no consideration is taken of the moral aspect, nor is the convict taught self-support, which in a large measure accounts for the recidivist swarming back in excessive numbers.

In practically all penitentiaries, the convict is taught very little that will be of value to him after release, unless it be that he intends to follow a life of crime, in which case his education has been augmented to a large degree. For some reason unexplained, fitting square pegs in round holes seems to be a mania with a large majority of all prison officialdom. No matter how much a department may need experienced help, the new man coming into prison will not be placed in that department, even though he has a thorough working knowledge of the trade. A tailor will be put to work with a

wheelbarrow, a machinist will be given a job sorting dirty clothes in the laundry, and a baker will be given instructions as to where to use a shovel, while the whole line eats soggy, sour bread for lack of a baker who understands the business. A bookkeeper is sent out to slop the hogs and a cook will be put to work sawing wood, while a hobo, whose culinary experience extends no farther than mixing jungle mulligan in a tomato can, wastes time and material in preparing nauseating messes for his betters. Just one of the hundreds of little tricks of the system.

Teaching a man a new trade is commendable; why not have an instructor who understands his particular line? A trade or profession that is merely "picked up," is not half learned.

When the time arrives for discharge of the convict, he finds himself turned out into a strange world with $5.00 in his pocket and the admonition still ringing in his ears to go to work at honest labor and "make good." Now, a majority of penitentiary inmates have become "prison birds" because of their ignorance of any trade or profession at which they might earn an honest living, and their refusal to learn is generally based on the fact that "work" is not in their line. During his incarceration he has been taught nothing of the habits of thrift and industry, and such being the case,

how can he reasonably be expected to "make good?"

Then again, his intentions may be of the best, yet the average business man will not give the ex-convict employment, knowing him to be such, making trivial excuses and passing him on to so-and-so, who, in turn, does the same thing, until the "ex" wearies of the game, commits another crime and returns to prison, while Mr. Good Business Man foots the bills.

Bear this in mind—most of them have a desire to make good; even the oldest "repeater" sometimes wearies of the game, and when an ex-convict has the nerve to tell you just what and who he is, in a majority of cases he will make good if given half a chance, and the very fact that he is a "repeater" is because sometime in the past he has been deprived of his just due.

The parole and probation system has proven efficient to a marked degree in States where they have been tried out, the greatest difficulty arising through the antipathy or reluctance of society in furnishing employment for paroled convicts. It seems that society would rather take a chance with the man who has not been caught, and pay the bills for the continuous keep of the captured, rather than free itself of unnecessary expense and at the same time help toward the rejuvenation of the weak and penitent.

In the eyes of the law there are but two reasons why penitentiaries are necessary: first, to protect society by removing the criminal from its midst; second, to reform the offender by systematic and perpetual punishment. In reality there are a number of other reasons, chief of which is the traffic in unfortunates through the contract system of labor existing in many States, and the advantage taken of the opportunity to pay political debts, which exists in all States. The spirit of revenge animates much of the penal code and the same spirit is carried to extreme in many of our prisons.

Authoritative punishment is the keynote of court and prison procedure, and just so long as revenge and punishment are the paramount issues we may reasonably expect no reformation of the criminal, for he, too, is human, with human instincts of revenge enlarged, and when his sentence expires he will be at liberty to retaliate for the suffering imposed upon him by the laws of society. That a man be deprived of his liberty and subjected to prison rule is punishment enough without making those rules drastic beyond all reason. It is merely the exercise of power of authority by the strong over the weak—a power that is abused in every prison of the United States.

There is nothing reformative about the present system; punishment is the only slogan. Long

years of confinement do not reform, and vindictive punishment breeds naught but hatred and revenge; the feelings of the man in prison are the intensified feelings of the child brought up under the control of abusive parents—degradation, hatred and revenge. Even in prisons under humane management, the officials are tied hand and foot with hidebound rules and laws handed down from the time of Moses, and no matter how glaring the defects may be, the humane official is powerless to change the most important conditions until such time as a legislature may be induced to mix common sense with politics relating to prison affairs.

A large per cent of prison populations are illiterate, yet there are very few educational advantages to be had in prison, in fact, none at all in most prisons. Another class is composed of mere boys, yet no provision is made for segregation. They are thrown in with the bad, good and indifferent, where they quickly learn the latest wrinkles in crime, when they might just as well be moulded into better and useful citizens, for they are right at the moulding age. Yet another class is afflicted with infectious diseases, but the clean and unclean are forced to work, eat and sleep together. And so it goes on through a long list of nonsensical rules. How can reform be expected from such a state of affairs? If these units of humanity are worth saving, and it must be admitted that they

are, the system must be changed to a rational basis and concerted effort made by all States to reform rather than reduce. Prisoners driven insane through brutal treatment is no uncommon thing as the official reports of many prisons will show, especially those where discipline is so rigid that laughing is a heinous offense, punishable with so many hours or days in the dungeon, according to the temperament of the officer in charge at the time this grave crime is committed. Perhaps you think this statement is overdrawn, and that such rules do not exist. Very few penitentiaries publish the rules of their respective institutions, for the reason, I suppose, that they are silly in the extreme in many cases, and publication would expose the apparent ignorance of officials making them. But it is not altogether ignorance; it is more often the case of supplying the excuse for punishment. However, on page 125 of the official report of the Missouri State pentitentiary for the biennial period ending December 31, 1918, you will find the rules of the prison and laughing is one of the offenses against the peace and dignity of the institution. Minnesota penitentiary also publishes the same rule, and if you investigate a little you will find plenty of others applying the same methods, added to which is the silent system in vogue in many prisons. There are splendid opportunities for reform under such management. (?)

Of the half million men and women, and boys and girls of the United States every year who are given a taste of prison life, it may be truthfully said that a majority are not criminals at heart when they commit their first offense and are caught. Rather, they are social misfits. Some of them are what may be termed "accidental" criminals—that is, circumstances over which they had no control led them on all unsuspecting to a felon's cell. Others under stress of great need have committed crime while temporarily deranged, brought on by worry and overwork, while again, some of the most revolting crimes in history have been committed while the perpetrators were under the influence of liquor, who, when sober, would shrink with horror from crime of any sort.

A majority of the population of penitentiaries is composed of the foregoing misdemeanants, while the element known as the "habitual" criminal is largely in the minority, yet there are far more of that class than there is any excuse for, at that. However, the law makes no distinction in the prosecution of offenders without money. The varying degrees of grist are all ground through the same mill and all fed into the same sack—the penal institutions. The mentally deficient, the skilled practitioner, the drug fiend, the tramp, the moral pervert, young and old, are herded together like

hogs without the least effort being made toward segregation. It requires a strong mind, indeed, to keep above the level of such constant environment; how then, can reformation of the weakling be expected? It is every bit as reasonable to place small pox, scarlet fever and diptheria cases in a hospital in the same ward with the tubercular and influenza patients, with no precaution taken to prevent the spread of various diseases. The old man who has spent years in the criminal line is in direct contact with the youngster who is just getting over the scare of his first "bit." With a mind easily influenced with wild yarns of a criminal life, the boy soon becomes a willing listener, and later a tool, for the man whose sole aim in life is revenge on society. Crime breeds crime and under the present American prison system, the jails, reformatories and prisons are the hot-beds and breeding places of more crime than was ever conceived elsewhere.

Must the prisoner then be coddled and petted to redeem him? Not by any means; the result would be worse than the present system. Did it ever enter your mind that the convict is human, exactly the same as mankind out of prison? Well, then, handle him and your prison system the same as you would any other business proposition from which you desired to produce the best results. We look back at the prison system of one hundred

years ago and marvel thereat; so will the generations to come look back at the present system and thrice marvel that an age boasting of the highest ideals in civilization should tolerate the custom of throwing away and wasting units of society as practiced in this glorious land of the free and home of the brave.

"How effectual have penitentiaries been in preventing the crime they were established to suppress?" asked President Lincoln. That the greatest American statesman knew even in his day, that the whole punitive system was unjustifiably wrong, is evidenced by the following quotation in which he says: "Has not confinement in penitentiaries long been the legal penalty of larceny, forgery, robbery and many other crimes in all the States? And yet, are not these crimes committed weekly, daily -nay, even hourly--in every one of the States?"

The sytem spends two billion dollars annually in the farcical attempt to control crime, yet crime is increasing. It is not because of their ability that men are selected to work out this great problem; politics does the hiring and firing of ninety-nine per cent of these public servants in these important positions. The political job-seeker must be taken care of while the tax-payer foots the bill.

The courts, the first rung in the ladder of the system, will railroad a poor man to the penitentiary

with scant attention, while the rich crook gets off free. The man without money has absolutely no chance in court, even though the prosecutor is certain of his innocence. Somebody must do time for those who buy their way out.

The system allows innocent men to be imprisoned for years without reparation of any sort. (See chapter on circumstantial evidence.)

The system forces men and women into a form of slavery equal to that existing more than half a century ago, to abolish which necessitated a four year's war. Convicts labor year in and year out, the State robbing their families of the results of that labor. And the strange part of it is that the work alloted them seldom reimburses the State for their keep, as every year huge sums are appropriated for the maintenance of penitentiaries, with little or no returns. What becomes of the results of this immense amount of labor?

The reaction of the brutal system on the minds and morals of the men confined, manufactures criminals, in proof of which compare the criminal population of those States using extreme methods with those where a strain of humanity enters into the scheme of things, and you will find the former exceeds the latter by twice over, in pro rata to the free population of the State.

The system does not allow prisoners to receive

or write letters to their friends and relatives except at long intervals. The theory is that the convict must be entirely shut off from the world, and in following out this imbecile theory the system punishes the innocent family and friends fully as much, or even more so, than the convict himself. In a few of the most enlightened prisons, however, this diabolical scheme of revenge has been regulated by officials allowing unlimited mail privileges, with the result that better discipline and morale prevails. More of this in another chapter.

In a sermon delivered from the pulpit of the Woodward Avenue Presbyterian Church, of Detroit, Mich., Dr. J. F. Wright, Leader of the Pathfinders' Club of America, spoke as follows:

".....I do not contend that men who commit some anti-social act should not be restrained, but we make a sad mistake to assume that in committing such an act they forfeit all love for their families, or respect for themselves and the rights of others, and expect to reform them through punishment of the most brutal form.

"In my opinion, restraint is all the punishment we have a moral right to inflict, and if we are to reform the man it must be with his confidence and co-operation.

"While in Jackson (Mich.) prison Bobby White contracted tuberculosis, so was released after serv-

ing but three years of his time, and was sent to Eloise sanitarium, from which place it is claimed he slipped out in the night and held up two oil stations, so he could get money to go to Iowa, to his sister, as his mother had died of a broken heart while he was in prison.

"I visited Bobby in his cell yesterday and he asked me if I would wire his sister and uncle in Iowa to come at once, for in his condition he is afraid he cannot last long in jail.

"Now, which is the worst criminal of the two, our prison system or the boy? Should it be necessary for any man working for the great State of Michigan for three years with a good clean record and no possible chance to spend his money contrary to the wishes of his boss, to have to depend on relatives, or go out and hold up someone to get the money to go to another State so he could be cured of a disease he had contracted while working for the State?

"Are you ready to meet Christ and answer the question, 'Am I my brother's keeper?'

"From the first day a man lands in prison we do by him what we punish most of them in prison for doing on the outside—robbing; for we rob the inmate and his family of the fruits of his labor. While in this institution we call a reformatory we restrict his possibility of reformation by limiting

his connection with the constructive forces on the outside to one or two letters per month, which must be written on one sheet of paper.

"While a husband and father is paying the penalty of his crime in Jackson prison, the great State of Michigan is paying him ten cents per day, while the wife and mother with five little children under fifteen years of age is living in an attic, objects of charity. Can you stretch your imagination to believe this will be a reformed man when he is released?

"By no means. Instead we will have seven enemies of society.

"And yet another Michigan father worked over a year in one of our Michigan prisons without one cent of pay, and had to borrow money to pay his carfare to Detroit, where he found his home broken up, children farmed out and wife at work. Do you imagine this man was a better citizen than when he went to prison?

"For complaining about his food a Michigan prisoner was caged in his cell, 5x9, for six months, without a bath, except what he could take in a small hand basin and one quart of water which he had to drink from each day. Do you think he was a better citizen after this experience?

"Another Michigan prisoner was released on parole in 1904. Was returned again in 1906 for

being found in a saloon liquor being his weakness. He was again released on parole in 1908 and knowing his own weakness, asked the Governor to allow him to leave the State and go to dry territory among strangers. Because the Governor would not consent he went any way, but made a fresh start, giving up drink and had a bank account. After eight years he returned to Michigan to bury his father, and they returned him to prison for reforming himself contrary to prison methods.

"Remember, each prisoner knows the other's story and experience. Can such experiences reform men?

"If a man hits the 'Billy Sunday saw dust trail,' and swears allegiance to some dogmatic creed, this act is accepted as a confession and full remission for all his sins, and to him is delegated the knowledge, wisdom and authority to go forth and preach the saving grace of some miraculous power. But, if he confesses to some specific crime before a court of law, he is robbed of his citizenship, disgraced before the world and sent to prison for a term of years. And society makes both forms standard."

Michigan is not alone in its manufacture of enemies to society; every State in the Union is implicated to a greater or less degree, according to the harshness of its code of prison management.

There is not a city in the United States with a population of 50,000 that has not a "fixer" in police circles. A "mob" of yeggs, dips or house prowlers on arrival in town, hunt up this official, make their presence known, and are given the privilege of "working" the town, providing they come through with at least ten per cent of their loot. The gang that obeys these orders strictly, is not molested, while on the other hand, the novice or the criminal who has not first "squared" himself with the powers that be, is relentlessly persecuted until they either buy the protection offered or are dragged into court and given the limit.

The foregoing may be astounding news to the citizen who has unbounded faith in his peace officers, but the man inside prison walls is well informed, and in all prisons are men who could give the name of the "fixer" in every city from Portland, Maine, to Portland, Oregon men who have stubbed their toe and been caught up trying to "work" without protection.

It must not be inferred that all crooks get this protection, by any means. It is extended to the upper strata of crookdom—those who are capable and have the ability to deliver the goods. For such as these there is protection in every large city and in many of the smaller towns may be

found an avaricious policeman who will take care of the right one—for his price. The petty crook is not considered at any time, any place, except in his successive appearances before "his honor." This is merely one phase of the System.

The prisoners are suffering from a group of obsolute notions, handed down to them from generations back, and many are still tied hand and foot to the idea that a man may be cured of his bad ways by making life unbearable for him.

The American Prison System does not build up; it is iconoclastic, therefor it is rotten, consequently a failure.

CHAPTER II

JAILS

Who are ye, thriftless sweepings of Creation, that we should forever be pestered with you? Have we no work to do but drilling Devil's regiments of the line?—Carlyle.

CHAPTER II

JAILS

HE MORNING after the first night in jail would be the psychological moment for the appearance of the "reformer." It is far easier to reform the embryo criminal than the old-timer, to whose ears the clang of steel against steel and the crescendo of clashing locks is familiar music. It is anything but musical to the man or boy who, in terror of something unknown yet to follow, hears the din for the first time.

If the law demanded reformation rather than vindictive punishment, here would be the time and place where at least ninety per cent could be released forthwith—a redemption which would be lasting, for the prison stench, the weird forms here and there in the semi-gloom, together, with the four walls crushing in, leaving no space in which to breathe, the bars seemingly crowding into his very soul, with the ever present thought of possibly having to spend years in just such a living tomb, are lessons never to be forgotten and far more reaching in effect than a prison sentence of ten days or ten years.

"A burnt child dreads the fire;" and eschews

playing with a live coal. The lessons taught at mother's knee are never altogether forgotten, no matter how far one may go astray later in life, and the first night in jail, especially a city jail, invariably brings to the youthful mind thoughts of home and mother, providing, of course, that he has not been a State charge since infancy. If the unfortunate prisoner is not wholly bad (few of them are, right at the start) he promptly arrives at the conclusion that several kinds of coals are dangerous to play with, and then and there a vow is registered that if—but what's the use? Society cries out for punishment and punishment is administered, even though another soul is started on a criminal career.

The jails are the kindergarten in the school of crime; the reform schools are the grammar schools and penitentiaries are the finishing colleges. By the time one has run the gauntlet of all three, very little remains to be acquired in the knowledge of crime. So, if reformation were the paramount issue instead of punishment, naturally the place to begin is in the kindergarten or primary department.

It is true that in States where the parole law is effective, instances frequently occur where prisoners—first offenders—have almost immediately committed crime again after being paroled from

the bench, in the meantime boasting to their pals how easy it had been "getting by" with the judge and probation officer. Cases are numerous where, in spite of huge sums of money and unceasing vigilance as preventatives, railway wrecks continue and lives are lost through error of some sort. Just because a wreck occurs on a certain road is no reason why travel should cease on that particular road. Nor does it; the public continues to travel just the same. But let a few failures happen to a system of moral reform and they never cease to be pointed out as the result of misguided judgment in an effort to save what is generally termed as "useless humanity," harped upon and magnified by politicians and the reactionary press, neither of which are in favor of moral progressiveness along any line.

Let us examine the jail proposition a bit. The country town jail is not much of a criterion to work on so we will turn to the city and county jails of the metropolis of any State where, as a rule, something is doing all the time.

The city jail usually compares favorably with a hog pen, though on most farms the hog has better quarters. The filth and stench arising from the "bull pen" of a city jail, together with the vermin of various breeds, sizes and disguises, makes life unusually interesting, if not enjoyable, to the

first-timer. Here the tough guy, the saloon bum, the confidence man, the yegg, the cadet, the murderer, and the rest of them, all the way down the calendar of crime, are herded together in quarters always cramped for room. While the corridors may be comparatively quiet during the day, the din at night makes up for lost time. Every morning a mess of nauseating food, usually scraps from the swill barrel of a nearby restaurant, is brought in and the gang lines up for breakfast. (?) The hobo and the tramp make the most of it, reaching for the share of others whose stomachs are not yet disgraced with slops. Meals are charged up to the city at so much per head, and as a profit must be derived to be cut at least two ways, naturally the fare is hardly good dog food. However, "If you don't like the chuck, stay away," is the usual answer given to complaints about the food, with the further information that the Hotel Ritz is up the street a block or so.

After breakfast the hose is turned on and the vermin given a drink, during which process the floors and everything else becomes thoroughly soaked. This is called "cleaning up," but for some reason or other, after each performance of this nature the place seems to be more filthy than ever.

By this time "Hiz Honor" has arrived and all

who are due for court are lined up as names are called out by the jailer, after which they are taken before the judge for a prelimenary hearing. Some are released owing to the lack of evidence, others gain liberty upon the payment of a fine, while still others are bound over to the Superior Court and later, taken to the county jail to await the action of the grand jury.

The saloon bum, arrested for drunkenness, is given a sentence of ten, thirty or ninety days, as the case may be, because he has no money with which to pay his fine. Ditto the tramp, arrested for vagrancy, and so on down the line of petty offenders. The taxpayers must support this riff-raff while they are being punished, (?) wherein the taxpayer is punished the most, for his purse is hit, while the bum offender is punished not at all, for he hasn't even a conscience to hit, and upon release does the same thing over again.

Where is the philosophy in such a system?

To be sure most cities have rockpiles and workhouses to which all petty offenders are sent, but can you point out a single one of such that is not an added expense to the commonwealth? They are inaugurated and installed ostensibly for the disposition of law-breakers; in the meantime they furnish a fine specie of payment for petty political debts by furnishing employment to keepers and

guards who, as a rule, are merely a grade higher in crookedness than the unfortunate over whom they exercise undue and brutal authority. This assertion does not apply to all by any means, but as investigation after investigation reveals crookedness and graft untold, one is led to believe that honest officials are in the minority to no small extent.

County jails are clearing houses for the city jails and to the county are taken all cases bound over for trial in the Superior Court. Here are generally found cleaner quarters, as inmates are usually due for an indefinite stay, and for their own health and comfort see that filth and vermin are kept down to a minimum. A kangaroo court is established in each corridor, composed of an inmate judge, prosecutor and sheriff, whose duties are to see that each new arrival is immediately given a bath and properly "crumbed," (relieved of lice or other vermin brought up from the city jail or elsewhere) and instructed as to his duties toward keeping himself and the place clean. If the prisoner objects, he is reasoned with, and in a short time will usually show a willingness to comply with all rules. The English Lord and self-styled Count are given the same treatment as that allotted to the pickpocket of the slums, unless the former has money with which to hire the latter to do his share of the cleaning.

Food served in the county jail, while probably not up to the standard of the fastidious epicurean, is far superior to that of the city bastile. And then, too, prisoners who have money are allowed to send outside for luxuries which they usually divide with their less fortunate brother, though in this item, rules vary in different cities. There is one thing, however, in which all metropolitan jails are alike as two peas. There may be a difference in the size of the cells, the length and height of the corridors, the shape of the bars, etc., but no American jail is without its shyster lawyer, an account of whom is given in a chapter especially devoted to this bird of prey. He is in a class all by himself.

The presumption of the law is that the jail prisoner be given a fair, impartial and speedy trial after arrest, but in cases of importance involving a degree of notoriety, all effort is made to have the case continued from week to week, as time is the essence of defense in most all criminal cases. Thus it frequently happens that a man may remain in the county jail for one or more years awaiting final disposition of his case; even two or three years if his attorneys succeed in getting his case before the supreme court, where it may drag along indefinitely. In the meantime the taxpayer foots the bill for the maintenance of the prisoner until such time as he is brought before the court for trial, when it often happens that he is released

from custody for lack of evidence. Such cases are not a rarity by any means, and I have often wondered why the voters persist in electing men to public office who will allow these things to go on without the least effort to rectify an injustice to the commonwealth in general and the individual in particular.

Then again, for some petty misdemeanor a victim will be thrown in jail for non-payment of a fine, where he lives at the county's expense either in complete idleness or employed at labor that costs ten times more to keep up than is derived in profits therefrom. Especially does the foreign element take advantage of a system so at variance with common sense that even the most ignorant make sport of it. I will quote one instance out of many that came to my personal notice, an instance which is duplicated many times in every county jail in the country.

Tony, an Italian, was assessed a fine of fifteen dollars for beating up his wife's best gentleman friend, and on refusal to pay the fine, was remanded to the county jail to "lay it out." He did. Tony's friends clamored for his release and offered to pay his fine then and there, but Tony would have none of it. He had been working hard all summer, as only an Italian can work, and, desiring to rest, figured that he knew of no other way in which he

could rest and make fifteen dollars at the same time, with his board and lodging thrown in.

"Dis-a de g-r-anda da coontree," said Tony; "licka da fren', and getta livin' two week for not'ing." The jail for him and in jail he stayed, where he slept most of the time, and at the end of a fortnight was released, refreshed for more labor and hard fighting.

You will say that he should have been treated in such a manner that he would have been willing to pay his fine the first day. In many places such brutal treatment, commonly called punishment, is meted out to prisoners who will not pay a fine, but time and again it has proven a dangerous boomerang, for recipients of such treatment, almost invariably return to greater crime in retaliation for blows received. Tony in idleness, (there was no work for him to do) was released a far greater asset to society than Tony in chains, for he was rested and ready to return to honest toil, which he did. But if he had been foully mistreated, as is often the case, Tony was of a caliber known as a "bad actor," and somebody would be made to pay the score, even though Tony might realize that in collecting the bill he would return to prison.

But Tony, or no other prisoner, should be kept in idleness. Workhouses and rockpiles are wasted so far as profitable employment for the prisoner is

concerned; why have employment at all if it is unprofitable? Would it not have been more reasonable and business-like if Tony had been given employment to the extent of a task, the proceeds of which would sell for the amount of his fine, together with all costs of his arrest, trial and his keep? Let him perform his task in a decent way; the more time he spent at it the more he would have to pay for his board and lodging, together with his pro rata of overhead expense, which would include all cost of maintenance of the plant. The workhouse is supposed to answer the foregoing, but the workhouse does not exist under the present system that is not a financial burden to the commonwealth, reports to the contrary, notwithstanding. They are for political graft only.

Common sense business methods should take the place of political graft, and when the prisoner is made to actually earn and deliver the full cost of his escapade, he will, in the future, have a greater respect for the liberty and property rights of others. Before the late war it was not uncommon to arrest men merely because they were out of work—on the charge of vagrancy and having no visible means of support—not because they were guilty of any crime or wrong doing. How absurd!

If the amount of money such arrests and imprisonment cost the taxpayer should be spent in

devising ways and means of employment for the unemployed, would it not sound more like good business?

Then again. If a well-to-do man goes on a spree and makes a public nuisance of himself, a policeman will manage some way to get him home. If a poor man does the same thing, or even less, said policeman throws him in jail. With no money with which to pay his fine, he becomes an expense to the city, whereas if cases had been reversed, the rich man could have paid a fine and the city would have been a few dollars ahead for a lesson given on the ethics of respectability.

Verily, the System is unique in placing the cart before the horse. The System looks back to precedent, the older the better, disregarding the progress of science and common sense. It sits facing the tail of its donkey and tries to steer its course by landmarks far behind while the traffic ahead presents an ever-shifting problem.

During the year of 1914, while conducting the affairs of *Lend A Hand,* Oregon's State prison paper, an article was sent to me which was written by a prisoner awaiting trial in a county jail of New Jersey, and for the purpose of giving variation to my own statement, and at the same time showing that about the same conditions exist in all

jails, I feel that it is not amiss to give the article just as I received it. He says:

"I have been held in prison awaiting trial six weeks. I am finding that trivial incidents have a tendency to assume larger proportions in my mind. My one great dread now is that my thought may unconsciously attune itself to the pettishness of the happenings which loom so large in the vacuum of monotony into which my fellows and I have been cast.

"I am confined in what is, I believe, as prisons go, a model institution. But if I, possessing what is by many considered a more than ordinary strong mind, so feel at the end of so short a period, what must be the mental condition of men of lesser brain power at the end of several years of similar confinement? And how terrible must be the degeneration of those who do not recognize their danger, and can thus make no conscious effort to combat it.

"In our prisons, society makes ample provision for the body, but practically none at all for the mind or morale of the prisoner, and I am not forgetting the occasional and largely mechanical religious services which are held at stated intervals in all penal institutions. Legal processes, insofar as guaging the prisoner's guilt and the appropriate length of time in which to hold his body in durance

are concerned, are elaborate; but diagnostic consideration of the causes—of the mind from which sprung the impulses governing these—is totally, or almost entirely, lacking.

"A majority of good people who appear to have an interest in the sin-sick go no farther in their endeavor than to try to see to it that prisoners are well-fed, well worked, well sanitated and well impressed with the error of their ways. Fear, so largely the motive power of old-time religion, is still held by many enlightened citizens to be the most effective instrument for the reform of the mental-morally diseased wards of society.

"Yesterday I noticed a fellow prisoner sitting beside the table in his cell watching some object upon it with every evidence of great enjoyment on his face. I stepped into his quarters and found he was gazing at a struggling fly which had been lured into its predicament by the molasses smeared upon a piece of bread that formed part of my neighbor's dinner. I was perhaps unjustifiably angered—at what, I did not then stop to consider—and with difficulty repressed an inclination to speak harshly to the fellow. But without a word, and as gently as I could, I released the fly and carried it out to the sunshine of the adjoining gallery.

"Two legs were lost in the rescue, but in a moment or two the fly recovered itself and flitted

away. Of several things concerning the fly, I am certain. One is that I could not in the least comprehend the processes of terror or pain, or what sensation it experienced; another, that I had provided it with no assurance that it would not again succumb to other and similar temptation. Neither had I been able to implant within its tiny anatomy any influence which would counteract the propensity that had led it into the peril from which I had rescued it.

"In my quiet night reflection, the relation of the fly, the molasses, my friend, myself, to each other, to society, to the predicament of several hundred other prisoners who share, albeit unwillingly, the hospitality of our county, slipped into my mind. The thing is too obvious to necessitate elucidation. But in this rambling through a series of little facts concerning imprisonment, I may take occasion to use the fly as a lesson pointer.

"I have been much interested during several years, both as a writer and a student, in the many phases of activity on behalf of humanity classed under the term "social service." A phase of the treatment of prisoners which has hitherto escaped my attention, and I doubt not that of many others, is in regard to the class of men who actually come in contact with the prisoners—those who, in the last analysis, are responsible for the reform (?) or punative measures which society has decreed shall

be enforced. These men do the work ordered for society by the courts. The prisoners of society are in their hands for weal or woe. The judges, prosecutors and juries perform their share of the task in the open—they are subject and often amenable to public criticism—as are the police who capture the prisoner. And all these are more or less trained for their work and chosen, presumably—however low the standard of judgment may be—by reason of some special fitness for it.

"But the wardens and keepers do their work behind stone walls—they are not exposed to the public eye or criticism. Should political influence, or mere chance, govern the choice of men for so important a task and the exercise of such tremendous power over the destinies of other men? Or should character—pronounced humanitarian instincts—play no part in the determination of their selection?

"These men have to make or mar a majority of the men with whom they deal. They wield a greater and more absolute power over their imprisoned fellows than any other class of men in existence. This is one of the little big factors in prison life that the public seldom considers. There can be no question that under the present system, in the event of the animosity of a guard or keeper toward a long term prisoner, he can make, and

usually does make that prisoner's life so great a hell that he can drive the unfortunate either into insanity or suicide. That such animosity is common has been demonstrated times without number. If an autopsy were held by outside authorities over the corpse of every prison-dead convict, before the end of the year this country would be athrill with horror.

"In a large majority of the prisons of the country, inmates who have money are exploited. This practice commences in many police stations in which prisoners may purchase whiskey, drugs or other contraband at exhorbitant prices, and extends on up the State's prisons in some of which men are urged to purchase cocaine, morphine and opium as means of forgetfulness. Could anything be more hellish than temptation in such a form and under such circumstances? In many of these prisons almost unbelievable small tricks are resorted to by under-keepers to supplant their incomes. In practically all penal institutions smoking is either permitted or winked at. Under these conditions, therefor, since all lights are usually electric, matches become a necessity. In some of these prisons inmates are not allowed to purchase boxes of matches, being supplied by the authorities with a certain limited number. The keepers then send around runners—trusty prisoners—who sell matches at exhorbitant prices and supposedly

secretly. Many of the so-called trusties are used to peddle drugs in the same manner.

"One of the most common forms of prison abuse lies in the handling and cooking of food. What one gets to eat plays a large part in the monotony of prison life. Of necessity the fare is plain, but often through actual dishonesty—often again through carelessness, this is unfit to eat. In many instances men are given just enough to enable them to live, and are made to suffer the continual pangs of hunger. In many other cases, also, those prisoners who are able to pay for their food are forced to pay prices far in advance of prices charged in the ordinary restaurant. In many prisons the coarse blankets go unwashed from year to year—or until they are worn out, while in others men are allowed to wash their face and hands only in the morning, being locked up at night with the grime and filth of their day's labor still upon them. In many institutions also, it is the custom to toss to the prisoner, clothes that have been worn, without the protection of underclothes, by another for many months, without any cleaning in the interim. Vessels used to convey food and drink to prisoners, also, are carelessly cleansed. In view of the fact that a large proportion of habitual criminals are afflicted with venereal diseases, the danger to those not already afflicted may be readily understood.

"Among the small things denied prisoners may be reckoned those of writing freely to their friends, the receipt of newspapers, and the curtailment of the number of visits allowed. Here and there throughout the country, are farsighted men who are coming to see that amusement, exercise and mental recreation are as necessary to the prisoner as food and drink if he is to be uplifted and helped to the strength to resist temptation when released. But these men as yet, are lamentably in the minority.

"The large majority of the small irritations which may make the life of the prisoner so miserable arises from the fact that the men who administer prison discipline are of the wrong caliber; they have not the vision that makes them fit leaders for the unfortunate. In this prison in which I am writing, the officials are exceptional, but there is no doubt that in most prisons such functionaries are brutalized rather than humanized by their contact with society's derelicts.

"I believe society owes it to the convict to see to it that the men who hold arbitrary power over him are selected, not because they possess political and often venal "pull," but because they have the character and ideals of christian manhood. There is no other standard that can assure certain justice in this phase of prison life.

"Of course there is a fundamental cause behind our failures—a genetic reason for the downfall of each man confined in this and other prisons. Personally I believe that it is due to a slipping away from, or never having been familiar with, the teachings of Jesus Christ. 'Precisely!' you exclaim; agreed about us. But mark you, I do not mean that this applies to us, the criminal, or call us what you will—as much as to you, that section of you, at least, which is an atom of the organized social system which maintains the conditions that help, often, to put us behind the bars, and then refuses really to try to cure or reform us—you simply try to protect yourselves. You palliate your offense with the sophistry that you are also protecting us against ourselves. But are you? What are you doing for our minds and souls? Are you not with us as I was with the fly, and just a little less kindly? And are you giving us any assurance that, our period of punishment over, we shall go forth with either the desire or the strength to retrieve the past?

"Frankly, you are not. If we go forth and do better, it will be in spite of your system of alleged reform which robs our minds of their keenness and vigor, our bodies of their sap, our hearts of their instinct to love and hope.

"Since my imprisonment I have read much of

the writings of some of our more eminent criminologists, humanitarians, etc. They have made me very sad. How little, after all, in twenty centuries have we progressed toward the application of the One Man who held the secret of the cure for the sin-sick humanity in His hands. Almost as little as I understand the fly, do the scientists understand the real need of the sin-sick. And the humanitarians, with the saving clause that they have begun right, since their hearts are engaged in their efforts, are as far at sea.

"A gentleman may spend a week in a prison cell and sleep and eat and work precisely as do a thousand more of the actual prisoners surrounding him—again I must remind you of the fly. Can a humanitarian enter into the mental processes, the thoughts, the desires of those other men? And he is chiefly concerned, is he not, with the physical things—those that, after all, matter the least? In my own section of the jail are eleven men, no two of them under indictment for a similar offense. And yet they, in common with several hundred other men confined here are to be treated, subject to their conviction, in precisely the same fashion—their bodies will be locked up. The only difference in treatment will consist in the length of their imprisonment. Of course, society insists that they are all guilty of one thing—sin. But can society afford to overlook the fact that the impulse which

led to the actual commission of this in each case sprang from a brain functioning in a different way—that the causes which led to the effect were of a varying nature? As a thoughtful, observing man, laboring under an indictment of society and yet trying to look at both sides of the question I must, in my turn, hand in an indictment against those who have laid charges against my fellows and myself. It is this: that even more alarming than the crimes of the criminal, is the seemingly utter indifference on the part of society to the conditions which make so often for sin and disease, and carelessness to the need of the reform or cure of those afflicted.

"Not only is society not making any headway in the cure of the sin-disease in those whom it apprehends—it is aggravating it, making it more deadly and prevalent. The only hope under the present method of treatment, is to kill each of the sin-diseased as quickly as possible. And there never will be any prevention or cure until society comes to see that it must adopt the individualistic form of treatment practiced and taught by Jesus Christ.

"But in thus touching upon some of the little big things that effect the life of the prisoner, as I have visualized them during my brief experience, I have merely scratched the surface of a great need."

There are thousands of jails throughout the country inhabited by more thousands of humanity, who see and feel, with a fathomless depth of helplessness, the futility of the System in its main strength and awkwardness, obstinately reversing itself in that it is supposed to accomplish. It is an individual problem to be solved only through primary individual effort that will eventually grow into community work, finally enveloping State and Nation.

CHAPTER III

"HOMES" AND REFORM SCHOOLS

"As the twig is bent, so is the tree inclined."

CHAPTER III

"HOMES" AND REFORM SCHOOLS



HESE INSTITUTIONS, misnamed, "Reformatories," or "Training Schools," maintained in every State for the imaginary purpose of teaching the minor offender the difference between right and wrong, are nothing more or less than preparatory schools for the future penitentiary inmate. Ninety per cent of the minors now inmates of the State penitentiaries are graduates of some Reform School or State Home for Children—the latter institutions usually preparing the youngster for the reform school, and the school for the penitentiary.

First offenders, under the age of sixteen, who, in the opinion of the Juvenile Court, while not being sufficiently incorrigible to be sentenced to the reform school, yet deserving of some sort of punishment, are usually committed to the care of the Childrens' Aid Society, or Home, which, besides serving as a place of correction for wayward boys and girls, is also a home for indigent orphans as well as those whose parents are considered unfit to raise children.

Taking into consideration the methods usually employed in these places, this in itself is a crime.

More than half of the inmates of these desolate places are children entirely innocent of wrong doing, yet they are given the same treatment as those exhibiting tendencies of incorrigibility. Naturally, the treatment is nothing short of unjust and cruel punishment. The result is easily imagined. The majority of these potential citizens, strangers to love and kindness, brought up on blows, punishment and scolding, naturally land in the reform school, there to enlarge and develop in the study of crime.

Just one example (out of many that have come under my notice during the past ten years spent in the penitentiary) of the development of a protege of one of these institutions fostered by society in the name of charity: A little boy personally known to the writer, was sentenced to the Boys' and Girls' Aid Society of California, for the crime of being without home or parents. Eight years later when the Society relinquished its control over him, he was committed to the reform school, and two months after his release from that institution he landed in the Oregon State penitentiary. From the time he was eight years old that poor little lad was the unhappy ward of a soulless State. The State raised him, fed him, clothed him and educated (?) him. The State took a boy with all the necessary qualities to become a good citizen—he was healthy mentally, morally and physically—and

turned him out at the age of majority a morally and physically deficient criminal. You will say he was incorrigible. He was anything but incorrigible when he was first taken to the "Aid," a tiny little kid, still sobbing for his lost parents. *But he is incorrigible now, made so by the State, and he will probably spend the greater portion of his life behind prison bars—the only home he knows.* The Christian spirit spreading its benign influence in and about this home for little tots in California, is the same sort that works with such devilish precision in every Boys' and Girls' Home in the United States, with no exceptions to speak of.

Then, too, there are many cases of the child who has been an inmate of these State Homes since infancy, who has been transferred direct to the reform school when too old to be longer detained in the Home. Diabolical, is it not? But true nevertheless; a direct refutation of the capability of management. The final result is obvious; the child follows that which he has been taught from infancy, and eventually another criminal is turned loose upon the society that fostered his education.

A fifteen-year-old girl stole an automobile in Vancouver, Wash., in December 1919, drove forty miles and was arrested. The District Attorney swore to a complaint against her and appeared as

her prosecutor; she pleaded guilty, and for the heinous crime was sentenced to ten years in the penitentiary.

In commenting on the case, the *Portland Spectator* said:

"Ten years in the penitentiary for a fifteen-year-old girl! That seems rather harsh, doesn't it even for the infamous crime of stealing an automobile? Of course, we have to admit that there were other charges against the child. She is an orphan, who never knew the care of either a mother or father. Her miserable, blotched, and ruined fifteen years were spent in public institutions, except for a short time when she was the adopted charge of a kindly woman with no knowledge of the ways of a little child. Our fifteen-year-old convict may be said to be bad; despite the food and clothing and religious instruction and discipline she received at the public institutions, she was not content to remain in them, and when opportunity offered, ran away. She fell under the vicious control of a man in the Government service, whose powerful political influence has so far kept him out of jail.

"Feeling certain that this little orphan waif is bad, are we going to make her any better by giving her the ten years' penitentiary term that District Attorney Yates asked should be imposed on

her? Does anyone in this wide world, including the District Attorney who prosecuted her and the judge who sentenced her, think that this fifteen-year-old child will be benefited by serving ten years amid such surroundings as a state penitentiary offers? Does anyone on earth, except the prosecutor and sentencer, think that the crime with which this fifteen-year-old child was charged merited such frightful punishment?

"What sort of people are we who permit our little orphan girls to stray from the straight path, and then, when they show the inevitable result of our indifference, carelessness and neglect, railroad them off to a ten years' term in the penitentiary? Have we reached that stage of inhumanity when we are willing to see the penitentiary used as a place of concealment and punishment for the little victims of our cruelty and barbarity? It seems incredible that a prosecuter should ask and that a judge should impose on a little child a sentence of ten years in the penitentiary—almost as incredible as that society should have permitted the orphan to pursue a course that exposed her to the infliction of such a savage, vindictive, un-Christian-like punishment.

"Had it not been for W. G. McLaren, of the Pacific Coast Rescue and Protective Society, of Portland, this little girl would now be in the peni-

tentiary. Among us all, he seemed to be the only friend the child had, and instituted proceedings that, temporarily, at least, delayed her introduction to the society of her fellow-convicts in the penitentiary.

"Knowing that she is bad, and needs reformation; that she is homeless, except for the penitentiary, and must have care; that she is ignorant, and should be educated; and despite her waywardness, she is a hungry, hapless, neglected little creature, *The Spectator* is willing to contribute each month something to her support and education and reformation. Probably there are mothers and fathers of little children who would like to aid in this."

In this instance the girl herself preferred the penitentiary rather than go back to the "Home," saying, "it can't possibly be any worse."

To foster and support such institutions in the way they are managed today, is a criminal offense in itself, and the wrong done to these helpless little bits of humanity who fall into the Fagin-like clutches of the managers, is worse than murder.

Imagine a representative of such an institution in charge of the moral welfare of a group of little boys, teaching them the sort of vileness the average man does not believe exists. Imagine another representative of the State's virtue conducting a

party of its wards through the red light district of the city, instructing them in all the wickedness to be found there. These are actual occurrences. Then try to feel surprised at the prevalence of of crime among the graduates of such institutions. Hundreds, nay, thousands of them are to be found in the penitentiaries, while the State spends time and money in devising ways and means for the reformation of criminals of its own making.

To a youngster in such a place, vice appears attractive and adventurous, for its sordidness is invisible to the youthful mind, and the very fact that it is illicit and forbidden only serves to make it more entrancing. Consequently he is a willing and apt student, and the environment in which he is brought up developes every bad trait in him and none of the good, so that when he arrives at the reform school it is with the fixed determination to "get by" as easily as possible and work his way out regardless of the principles involved. And it is the same when he arrives at the penitentiary, marked to a greater degree as wisdom ripens with age.

Theoretically the reform school not only endeavors to reform the unruly youth, but also to teach him some trade that will enable him to be self-supporting and independent after release. What it really does is to impart a sneering con-

tempt for the law, and contempt for work in any form as an essential factor of existence. This is due to the fact that while trying to reform, they also punish the lad in such a manner that the ultimate end, reformation, is lost in the immediate effort to produce a fearing respect for the law, which he has every reason to suspect is only an unjust power dominating the weak.

Instead of seeking to educate the youth so that he will understand and appreciate the personal benefit gained through an honest living, the management harps on the physical punishment that will result through dishonest living. In other words they expect to bring about reformation through fear of further punishment—a thing impossible—when they should be making an effort to inculcate principles which will create a desire for honest living for its own sake. Consequently the youth will leave the reformatory minus a motive or incentive for going straight. Fear of punishment is no deterrent to crime, especially to a young man who has spent the formative period of his life in an institution where the one who is afraid to "take a chance" is considered a weakling.

The reform school is merely the product of the Home on a larger scale, with the exception that all inmates have been convicted of some offense. It is ridiculous to say that the boy who commits some

trivial offense is a confirmed criminal, but let him be sentenced to one of these institutions and nine times out of ten he develops into one.

This calls for drastic changes in existing conditions and until such changes are made, these crime-breeding incubators will continue to furnish human fuel for the hell-fires of penitentiaries; they will continue to produce criminals to prey on you —society; they will continue to twist and warp and destroy the better nature in their young and helpless victims—and think—suppose it were your boy!

It is unfortunate, indeed, that we have so few Judge Lindseys —so few men conducting our courts who understand humanity, more especially young humanity. This wonderful man, Judge Lindsey, who has done so much for young humanity, says:

".....I have marveled most at the world's ignorance of other forces than violence."

There is the rub—ignorance of the common law of justice and humanity; bound up in their own selfish world of smug contentment, ever alert for public approbation, the average judge or official having to do with public institutions, is but a menace to the best interests of the people whose servant he is.

We have societies without end for the "uplift" of the man in prison, each one anxious for top

space in the daily press, but what do we hear or read of any interest taken to benefit these poor kiddies in the school of crime? The boy problem is the keynote of the crime problem.

Judge Cleland, of Chicago, says that all reform schools are but the high schools of compulsory education in crime, preparatory to entering the finishing college—the penitentiary. In view of the fact that nearly all recidivists in penitentiaries are products of reform schools, as prison records prove, it must be admitted that Judge Cleland's remarks were not made at random.

A boy in the reform school (as does the man in prison) eats by rule, sleeps by rule, works by rule, and if he plays at all, he plays by rule. Rules, rules, rules; nothing but rules; with continual discipline without relaxation, which is directly contrary to all laws of human nature, without one hour of natural boy life. Is it any wonder that he leaves the hated school with the avowed intent of "getting even" somehow? And he does get even many times, but in the getting, invariably lands in the penitentiary. After doing his first bit there he usually plods along the same road and lands back again in a short time. He simply cannot help it, as he is following out that which has been instilled in his breast during most of his young life.

Prisons in all States have a generous sprinkling of reform school products. New York has its boasted Elmira Reformatory where hundreds of boys are turned out every year to get even. New York also has five big penitentiaries, some half dozen small ones and over two hundred jails and workhouses and reformatories, where a large number of these boys are still getting even. New York is not alone in the foregoing indictment. Every State in the Union turns its quota of penitentiary population out of its reform schools, which do anything but reform.

Mr. Frederick P. Fairchild, Instructor at Rainsford Island School for Boys, Boston, Mass., says:

"No person should have authority over a child who ever forgets that he was one. We can easily add to this statement and say that the man who trains boys should place himself mentally where the boy is whom he is correcting, and remember how he was very much like this boy, and his failures were like this boy's failures, even though the two lives may have had a different social setting and the particular acts of boy and man differing in having a different conventional expression, the principle being the same when rendered into other ratios of modes and forms.

"And he should tell the boy so, and commis-

erate with him, even at the moment when he administers condign punishment. There are two avenues by which to approach a boy in order to uplift him, sympathy and reason. And no boy can be corrected unless we bring these two qualities to bear.

"Above all show the boys respect in your treatment of them as you should demand respect from them. A man never loses respect by showing respect. Instead he gains respect. I never knew a case where even the lowest bred boy ever treated me less respectful because I said 'please' and 'thank you.' Instead I gained his respect, his real respect, and generally his love. The boy moves quicker when motived by 'please' and 'thank you,' and he does better work. Little words, but profoundly dynamic and productive of great results."

CHAPTER IV

THE PENITENTIARY

Where shall we bury our shame?
Where, in what desolate place,
Hide the last wreck of a name
Broken and stained by disgrace?
Death may dissever the chain,
Oppression will cease when we're gone;
But the dishonor, the stain,
Die as we may, will live on.

—*Moore.*

CHAPTER IV

THE PENITENTIARY

WHILE PENITENTIARIES may vary in the treatment of prisoners, the system of imprisonment and release is practically the same in all—an offender is sentenced and convicted for a term of years, at the expiration of which he is released, regardless of his condition, moral, mental or physical. He cannot be detained one day beyond his allotted sentence—out he goes into the world with five dollars and a suit of clothes which loudly advertise the wearer as an ex-convict.

The treatment of the prisoner during his enforced detention varies all the way from humane care to extreme cruelty, the latter predominating in most prisons, especially through the South, with Texas, Alabama and Florida in the lead, where Nero would pose as an angel of mercy in comparison with the officials of those prisons. It is only of late years that the convict or ex-convict has dared raise his voice in an effective way, either before or after release, against the hideous conditions as he had found them. Previous to Donald Lowrie's story entitled, "*My Life in Prison*," in which he exposed the hellishness existing in San

Quentin, (Cal.) prison, prior to 1912, anything said in public or written by a convict, was taken with considerable doubt as to veracity, which, together with the fact that very few people were interested in prison affairs, left but little impress upon the public mind. Of late years men and women of affairs have become interested as to why the prison failed in that which it was supposed to do—reform the criminal. After some investigation it was found that under existing conditions it was an utter impossibility to reform anyone, and the farther they probed the festering sore, the more rotten they found conditions to be. At present there are any number of well-qualified jurists who emphatically declare that prisons do anything but reform, yet, according to law, they must keep on sending men and women to the human scrap pile.

Judge McGinn, formerly Judge of the Superior Court of Multnomah County, Portland, Oregon, on his last day of presiding over the criminal department, in exasperation over the efforts of the District Attorney to send two young boys to the penitentiary, made the following remarks:

"Let no one think the penitentiary is a reformatory. It is not. Every time a boy is put in the penitentiary he is put in hell. Let the coming legislature put in some time studying modern methods of reform in institutions that will save

boys and not put them in penitentiaries. It is an easy thing to put them in the penitentiary, where you can hide them for a little while, but when they come back into this Court they usually come here for a more vicious crime, and finally they answer to the crime of murder."

Do you need a stronger indictment against the American Prison System than "finally they answer to the crime of murder," to arouse you to a sense of danger in allowing its continuance?

A majority of the prison populations are composed of youngsters between the ages of seventeen and twenty-five years, and while we may consider the sentence of the hardened and malignant criminal with equanimity, we are bound to acknowledge that some other school than the penitentiary should be selected for the boy. There is no telling the possibilities for good that lie within the boy, who, from volition or training, environment or misfortune, steps out of the beaten path, and for that offense is thrust in the penitentiary. It is the universal testimony of men who are in intimate touch with that sort of thing, that in nine cases out of ten, the penitentiary kills every possibility for good which the boy might possess. Society with cruel facility, finishes the work which the boy unwittingly began. Society cannot continue to do that and save itself from disgrace.

In the handling of prisoners, penitentiaries are largely alike, as I have found by diligent inquiry and reading of prisons in various localities. The usual procedure as described by a former inmate of Blackwell's Island, one of New York's penitentiaries, shortly after his release, clearly sets forth the lack of common sense in the administration of affairs of most prisons of today. He says:

"Under circumstances which have no bearing on this article, I committed a deliberate crime against property, for which society, through its judicial mouthpiece sentenced me to undergo a term of imprisonment in the penitentiary on Blackwell's Island. On this score I have no complaint to make. My punishment was deserved, and I consider that the sentence inflicted upon me was light and merciful.

"A few days before I sat down to write this I completed my term of imprisonment, and now I am trying to appreciate what it all means. What was the object in imprisoning me? Am I better for my experience? If so, to what is the improvement due? What does society expect to effect by its treatment of criminals, first offenders in particular, as exemplified in my case?

"I left the penitentiary with no personal ill-feeling. My treatment was no better and no worse

than that of others. Like them, I was in the hands of the System.

"Nothing can ever remove the mental scars left by the first few days of my experience. I was barked and snarled at by some keepers, thrown violently against the wall by others for unwittingly breaking rules, the very existence of which I had no knowledge, and no means of learning otherwise than by breaking them. Whenever I infringed upon the routine of the prison I was abused, sometimes in filthy and abominable language, by keepers or by prisoners in quasi-authority, because I did not know what I was expected to do, until I felt dazed and broken and almost convinced that I was the dangerous animal they apparently assumed me to be. Later experience taught me that this was the invariable practice with all newcomers.

"For the first few days he is closely watched and intimidated to crush his spirit and drive out all thoughts of resistance. As no instruction as to prison rules and regulations is furnished (save a card of fourteen rules found in every cell, which does not pertain to the daily routine) it is an easy matter to find many opportunities to find fault with the newcomer. It is only fair to add that he is seldom or never punished for these infractions. But he does not know this, and accepts the threats

of dark cells at their face value and lives for hours in a fear that is even more severe in its effect than the punishment would be.

"This practice of breaking in a new man had its logical effect, and by the time I was secured for the night I had a very lively conviction of the fact that I was a pariah and an outcast. I tried to view the situation dispassionately. I did not believe I was altogether depraved. And I knew I was not dangerous. I had gone to prison for pleading guilty to the crime with which I was charged, with an earnest determination to reform, to prove by good conduct that I intended to do so, and to use the time for introspection and self-analysis, with a view to eliminating that part of my make-up which had led me to do this. My first few hours in prison drove all these good resolutions from my mind, and I was left with a knowledge, driven home by plain words and forcible deeds, that I was no longer a man.

"I was pre-judged a dangerous, vicious rule-breaker; I was now in my right place at last; I had no rights of any kind, and I might as well give up all hopes for the future. The result of this was exactly what might have been expected.

"I passed the first night in my cell in bitter indignation that I should be subjected to such treatment before I had been given a chance to prove my desire to live up to the rules, and a

hatred for society, which permitted even the worst of criminals to be so unjustly treated. This bitter feeling quite eclipsed any good resolutions, and remained in my mind for several months, gradually becoming stronger as I brooded over the helplessness of my position. I would inevitably have returned to the world with this hatred fixed and intensified had it not been for the hope and help which reached me at a later date from quite extraneous sources.

"It is a difficult task to enable my fellow-man to understand the bitter, helpless feeling which the penitentiary system plants in the breasts of its victims. It is present in every prisoner's mind, and never varies in nature—only in degree. It is a "what's the use" attitude—a *cui bono*? feeling, based on the knowledge that nothing he can do will save him from punishment if he is brought up on charges; that his previous good conduct or present innocence will alike avail him nothing; that punishment or evasion of it, is alike, a pure matter of chance.

"I met only two men who were unwilling to admit the justice of their punishment, and I never heard a real complaint against disciplinary measures. But I frequently heard from others, and never lost myself, a steadfast, passionless resentment at the impossibility of getting a square deal; at the uselessness of making any complaint, how-

ever well-founded; at the vanity of making any request which might tend to improve a prisoner's mind, help his body, ameliorate his condition, or aid his prospects; at the certainty that any charges brought against him by any keeper meant immediate punishment; while an awful sense of utter helplessness under this regime made the place a hell.

"It is the presence of this feeling that formulated in the prisoner's mind a bitter enmity against society and that leads to the inception of many crimes. It is the presence of this feeling that does and must render useless every effort to reform a prisoner suffering under the medieval system of treatment in vogue in most all prisons. You cannot help a man who knows you are not giving him a square deal.

"Since my discharge, I am asking myself the question, why was I imprisoned at all? If the object was to protect society from further injury at my hands, as the court assured me it was, why release me before any attempt has been made to discover whether I was less dangerous or more? Am I less likely to steal when I am turned loose with nothing in the world but five dollars and a suit of clothes, than I was when I was earning a good salary? And what about the unfortunates who, to the number of five or ten daily, are turned

loose upon the world after serving sentences up to a length of two and a half years, without a cent to buy a meal and a bed, and with no clothes but the rags they came in? Many times I have heard Jack ask Bill what he was going to do when he was discharged. Many times I have heard an answer to this effect:

"'What kin I do, Jack? I came here in July, an' now I gotter go out in the snow an' hail wit' my summer clo's an' no money. I gotta eat an' sleep, an' it's a cinch I ain't a gonna rob a poor box. I'll have to stick a bloke up fer de price, that's all.'

"What would you do in Bill's place? Or suppose you are the "bloke" he holds up for the price?

"If you capture a wildcat, keep it caged for a year or two, then liberate it without having tried to tame it, what will happen to your chickens when the wildcat feels hungry?

"Perhaps I may be told that the object of my imprisonment was my reformation. Then how was this supposed to be accomplished? As far as society is concerned, no effort of any kind was made to this end; no inducement was held out; no encouragement offered. It is a positive fact that under the present prison system the treatment of the criminal has for its ends only the safekeeping

of his person and the saving of trouble to officials. This inevitably leads to the only object that was really gained by punishing me—imprisonment. This, of course, was one of the objects aimed at, and rightfully so, but as matters are at present, it is the only object attained.

"There is no doubt that a great majority of first offenders could be made useful members of society if any organized, intelligent effort was made to reach them after they arrive at prison, and to hold onto and encourage them afterwards. No such effort to reach men at any stage of their imprisonment or afterwards, came to my notice; as a matter of fact, none such exists in connection with penitentiaries. I say this while well aware of, and much indebted to, the representative of the Protestant Episcopal City Mission, acting as chaplain at the penitentiary. He is a good and true friend of the prisoners, by whom he is loved and appreciated, but the multiplicity of his duties prevent him from doing any work along the lines I have indicated.

"Perhaps the greatest penalty the educated prisoner encounters in the penitentiary is the lack of means of occupying his mind during the fifteen or sixteen hours he daily passes in his cell. Many a night I sat for hours brooding over my fate. What else could I do? I had no friends to send me

magazines, while the prison library—a good collection—is deprived of much of its usefulness by the fact that a prisoner is not allowed to select the books he wishes to read. He must take what is thrown into his cell twice a week, often getting a book he has read a week or two before, or more often, a work which he has read outside or which he does not wish to read anyhow.

"In time I procured means of occupying the evenings sensibly and profitably, but I was the only man in the prison to do so. This occupation filled the hours I had spent in morbid brooding and gave me something to strive for. But what of the spare time of the average prisoner? He may be anxious to improve his mind, to study. The means of doing so are in the library, but he cannot get them. All such requests were ignored by the officials. A man's brain, must be occupied somehow, and I know from what I have seen and heard, that much of this spare time is devoted to 'framing up' a job to be carried out on release, and to other and worse practices which I do not care to mention here.

"Physically, thanks to a strong constitution, I have not suffered much from imprisonment. I hold myself fortunate that it is so, owing to the absolute impossibility of getting any kind of rational medical treatment under the present system.

This is not the medical officer's fault. He does the best he can with the means at his disposal and the absurd rules under which he must receive men complaining of sickness.

"Mentally I am worse and better than when I was sentenced. I am worse because of having lived for many months in an atmosphere of petty tyranny, under a system of injustice and repression; where every day was a day of fear lest I should unwittingly break a rule, or—which amounts to the same thing—be accused of breaking one. In such a case there is no hope for the prisoner; the charge is sufficient to entail punishment without opportunity to make a defense.

"I am worse for having lived for many months in a vermin-infested cell, lacking ventilation and sanitation, with quite inadequate time or facilities for bodily cleanliness. A man cannot be mentally clean and physically dirty, and the latter is compulsory in the penitentiary as at present conducted.

"I am worse for many hopeless and monotonous hours spent in my cell with no occupation for my mind.

"I am worse for the belief, which endured for many months, that I was a pariah and an outcast. I am worse for the lack of all refining or helpful influences, and for the presence of low, brutal and

degrading influences which embittered me and made me a worse man.

"If I am a better man for what I have gone through, it is in no sense attributable to the System. If I have returned to the world determined to make good, the credit is due to a few kindly and humane hearts, in no wise connected with the penitentiary, who have offered me encouragement to take up the battle of life anew, who have taken me by the hand in a friendly grasp and assured me of their belief in me—a belief which is even now spurring me on to make good that I may justify this faith. It is to these friends that I owe the fact that the last few months of my imprisonment, however clouded with doubt they may have been, were never without the silver lining of hope, and it is to them alone that I owe whatever good my imprisonment may have effected.

"Is not the whole procedure senseless? You declare a man an outcast and an enemy of society and send him to associate with his kind. You offer him no help to reform or improve himself—you obstruct his efforts to do so. You allow officials, well-meaning, perhaps, but ignorant, to handle him as they please. You turn him out again in the world, penniless, and when he falls again you call him an habitual criminal and clamor for a longer term of imprisonment. I grant that if a man is not cured by his first term of imprisonment, he

probably never will be. But what do you do to help his cure? What are you going to do about it?"

And here is still another experience, written about the same time as the previous letter from Blackwell's Island. This ex-prisoner from the Clinton Prison, also of New York, writes:

"I have wondered why the prisoner himself is not given more of an opportunity to explain his side of the case. After all, he is most concerned, and by virtue of his position, knows far more than any of the prison reformers. The future successful reformer, the one who will really achieve, will be a master humanitarian. He must be delegated with wide discretionary powers. Under him must be a corps of assistants who are also practical psychologists—psychologists because they have felt.

"For many years the question of prison reform has been agitated, yet one continually hears of the crowded condition of our prisons; over-crowded, I mean, by those who had previously been inmates. These men were turned loose on society before they were capable of meeting the vital issues that were to confront them. With an occasional exception, every man leaving prison would, if given half a fighting chance, work along legitimate lines. Cram a cylinder full of powder, insert and light a fuse, and the result will be an explosion; take a human being, instill hatred in his heart and every

fibre of his nature, and the explosion will shake society to its foundations.

"The ordinary man is incapable of dealing with such a condition of affairs; it needs the trained hand of the psychologist to deal with and solve the complex problems arising, confronting him on every hand.

"One day I met a man in the shops. I addressed him as was my habit, with a 'good morning.' He mumbled something and sullenly turned away from me. I was never so surprised in all my life. He was serving a long sentence, yet his was one of the sunniest natures I had ever met. Always full of quaint, optimistic philosophy, he buoyed others and created an atmosphere that dissipated the perpetual gloom of the prison workshop. What was it that had happened? He had never before been given to sullenness. He sat by his machine, staring vacantly at it. I watched him curiously; I was a little hurt because of the attitude he had assumed towards me. He sat that way for quite half an hour when an officer approached him and asked why he was not working. He returned the same surly incoherent reply. The officer reported him for refusing to work, and he was locked up in a dark cell on a diet of bread and water for six days. Later on in the day we learned that he had lost his wife and baby. The question

of why he had so suddenly become surly never entered into the philosophy of the disciplinarian. He was simply punished for the commission of the infraction. His nature changed from that day; he became one of the most insubordinate inmates of the prison. What caused it? The death of his wife and baby, or the inhumanity shown him during the darkest hours of his life? Had a trained psychologist been the disciplinarian, he would have looked for the cause, and tempered his future actions on the result.

"I have known men to come to the shop in the morning cranky and quarrelsome, simply because they had not received a long-looked for letter from a loved one. It doesn't take much to arouse the temper of such a man to the boiling point. Living as a prisoner does, under abnormal conditions, it takes very little to make him deviate from a normal course. If, while in this mental condition, he breaks a rule, he is punished, regardless of what prompted the action, and so the seeds of hatred are fostered. A little thing, you say; but, oh, how pregnant with results! It is a man's nature to be sweet and cheerful; if he is otherwise, there must be a reason, and until that reason is searched for and the remedy applied scientifically instead of the haphazard manner now pursued, so long will criminals be manufactured. Because the old obsolete manner of dealing with the criminal is

still in vogue is the reason your property and even your life is in peril.

"Many theories have been advanced as to the best means of dealing with the discharged prisoner. As a rule these theories either border on the sentimental or are so ridiculous as to be almost sublime.

"Why should I lift my voice in protest against the existing order of things? Simply because I am an ex-convict, and would, if I could, have a voice in things that vitally concern me. I was discharged from prison about six weeks ago. During my six weeks of freedom I have been trying to break down the hideous barriers that stand in the way of men, who like myself, have come forth to struggle honestly for a man's place in society again. Far too frequently these barriers are erected by society itself. Far too frequently the struggle of the ex-prisoner has proved a miserable failure.

"If, as we are made to believe, man is essentially good, *i. e.*, made in the image of his Creator and imbued with spiritual attributes inherent in such nature, then why damn the discharged prisoner? Do you damn him for what you think he will do or for what he has done?

"Prison life, in its most ideal state, molds a stamp of personality on the inmate that must be worn off; one cannot change it as one does a soiled

collar; if it be superficial, the harm done is slight; if, however, it goes below the surface, strenuous effort must, of necessity, be made to purge the system of taint.

"It seems right and proper to clothe the prisoner in grey, confine him in a grey building, build a grey wall around the building, and finally paint the building grey. Grey exudes a peculiar psychic power. It suggests quiet, silence—and in prison silence reigns supreme. Used wholly as a color scheme it causes depression. The monotonous sombreness of prison life often has a deadening effect upon constructive thought. For all classes of people the prison is the common melting pot. Asceticism has no place there; custom, not choice, is the arbiter. It dictates until destructive thought is the natural and logical outlet for emotions.

"Prison life as we now see it can never be anything but abnormal. Most of the finer faculties are held in abeyance—border on atrophy if one can be confined in prison long enough; no matter how fine or strong the mind, one will, one must, degenerate. Now, suddenly remove a man from this atmosphere of restraint and chaotic thought; transplant him where clean, constructive thought is the rule rather than the exception—in a word, change entirely his whole scheme of life; what happens? When the shackles have been removed is it any

wonder that liberty is construed as meaning license?

"The discharged prisoner is no more fitted to cope with the new conditions he finds himself in than is the convalescent from the hospital. Bandage a man's eyes in the soul-destroying darkness of prison, remove the bandage and the new-born light cruelly stabs the sight. Sneer, if you will, at psychology, I dare predict the time when our penal institutions will be governed by trained psychologists. The power that evil suggestion wields is so overwhelming that one gasps, and hardly believes the evidence that arises, mountain high, before him; yet it is pitifully true. It is not the spoken word that wrecks so much havoc; it is the "intangible something" that one feels.

"On the morning of my discharge from Clinton prison one of the guards asked me:

" 'When are you coming back again?'

"I laughed and retorted: 'When you are elected Governor of New York State.'

"Never by any wild chain of circumstances could this man become Governor. A few minutes later the principle keeper came to the guard room, glanced at me, and smiled, a mirthless, sneering smile. I realized instantly the thought, though unuttered, that he meant to, and did convey.

"Living in an atmosphere surcharged with poisonous, destructive thought, it is only a question

of time when these influences benumb the brain. One works hours over a drowned person. Merely pulling him out of the water will not resuscitate him; he must be worked over, and every particle of water removed from the lung tissue. Hard, strenuous effort must be resorted to, to the end that life be brought back. So, too, with the discharged prisoner—the poisons he has been inhaling must be wholly eradicated. Do you wonder now, why so many go back—"repeat" is the prison phrase, even to the third and fourth time?

"Let a great catastrophe occur—a Galveston flood, an India famine, a San Francisco earthquake. Immediately a great warm-hearted public will unlatch the strings of their purses and sympathy, and give generously. Let a human derelict—an image of the Creator—who has paid the wage as meted out by the State, ask aid, and the result—need I tell you?

"In June a stenographer and bookkeeper, just released from prison, applied to a certain concern for employment. They offered him an absurdly low salary, with the further inducement that if he stayed six months he would get an increase. True, an air of sullenness hung over the man, his brain was still clogged with the fetid fumes of a two-year's stay in prison; he hadn't reached the normal state—he hasn't yet. I met him last week; he

had again gone back to his old mode of life—a thief. Why? A self-righteous public will smile derisively if the boy—he is but twenty-five years of age—is again apprehended, and with thumbs down insist that he be again buried for a long term of years in a moral pest house.

"Even those who sincerely and really evince a desire to aid the discharged are handicapped. The prison association is an instance. I called at the office of the society a few days ago, and while talking to Dr. O. F. Lewis, general secretary of the association, he deplored the lack of responsiveness among many of the business men of the city.

"'Even our own neighbors,' he said, 'will not aid us in giving employment to the boys who appeal to us for help. One of our neighbors employs thousands of men each year, and he has ever been deaf to our appeals; we are handicapped for lack of funds as well, and we cannot do all we should like to do.'

"One cannot help feeling the sincerity of Dr. Lewis. Contrary to my expectation, I found, instead of a domineering person, a courteous, unpretentious, and friendly gentleman, and yet efficient and practical; but because of the frequent lack of sympathy of the general public toward the discharged prisoner the work of the prison association is fraught with great difficulty. Abandon the

threadworn theories concerning the discharged prisoner. Help him back to the normal order of things and you will find it pays."

If my readers, after perusal of the last few pages of ex-convict testimony, feel in any way doubtful about taking the word of individuals who might possibly be prejudiced, or might be liable to view the situation through jaundiced eyes, and therefore have written their experiences in the spirit of vindictiveness, I refer you to Mr. Thomas Mott Osborne for corroborative evidence. Mr. Osborne, a millionaire of Albany, New York, spent a self-imposed term of six days in the Auburn penitentiary of New York State, keeping a close record of events which transpired during that time, which he relates in full in his book, "*Within Prison Walls.*"

"The foulest blot upon our social system," "Organized lunacy," "Monumental imbecility," "An outrage on justice and common sense," these are some of the characterizations which the millionaire business man applies to the American Prison System, gathered from observations during his voluntary confinement of a few days. What, then, would be his opinion if he had been an enforced prisoner with a time of years rather than days?

Briefly he charges that existing penal condi-

tions make bad men worse instead of making them better, to the ruination of man and the damnation of society. He thinks the convicts as a whole are ruled with brutality, stupidity and injustice, and that more sound sense and more kindness would do much to solve the problems of penitentiaries. He holds that prisoners are treated as beasts when they should be treated as men. As in the two preceding letters, it is the American Prison System which Mr. Osborne blames rather than individual officers. After all, what is the American Prison System except the product of the officials in control? It lies within their power to change conditions to a large extent if they so desired insofar as treatment of prisoners is concerned after coming under prison control.

Restraint is all the punishment society has a moral right to inflict upon their fellowman, the criminal. To be sure, there is a certain class of men who will not be ruled except with the mailed fist, as it were, but one of the greatest causes of failure in prison management is that rules made for the restriction of the "hard-boil" effect every man in prison, good or bad. The well-behaved, well-meaning prisoner must suffer for the misdeeds of a few, which is anything but justice, and I have yet to see or hear of the first official who believes or practices any other code. It is exactly as a parent whipping all his children because one of

them has been rebelious. Naturally it leaves a feeling of resentment against an injustice which finally results in downright cussedness and eventually riot and disorder. When it is taken into consideration that ninety per cent of the inmates of any prison are in favor of harmony and are easily managed, you may safely assume that a prison riot has far more behind it than a few incorrigibles, who lack the intelligence to lead a whole prison.

Severe punishment, as practiced in most prisons, for the petty infraction of still more petty rules, borders on the assinine, and as a rule does more harm than good, especially when the one punished is well aware that vindictiveness is the keynote of his man-handling.

In print we often see the phrase, "put men in charge of the prisons who are humane—big in mind and soul. Men to whom the love of humanity has a meaning, and who realize the oneness of all, and that they, indeed, are their brother's keeper." On the whole a splendid suggestion, but—so long as prisons are ruled by politics the big, humane man will never have charge, at least, not long enough to accomplish much good. Politics will not let him remain. Ever since the first prison was established in America, it has been recognized as a legitimate proposition for the payment of political debts of the party in power. The salary

of the warden is usually less than half that required to reimburse the proper sort of a business man necessary in such a position. It is a $10,000 job usually paying one-fourth that. Occasionally a warden is appointed who is willing to work for humanity for humanity's sake, but they are few. indeed. However, to such as these we may trace the little reform that has been accomplished in the American Prison System.

The usual prison employee of the past (and the present) cares nothing for the physical and mental welfare of those directly under his charge —he is not paid enough to care. The prison guard who has direct charge of the men placed in his squad is not interested in the unfortunates under him, and who could expect him to be when more times than not his efficiency is less than that of a majority of the men under him. They are hired because they are cheap; if efficiency is to be had in guardianship, it must be paid for. The much-abused sheep herder has it all over the man herder —there is not much expected of the former, while the latter holds a position calling for more brains than can ordinarily be hired for sixty dollars a month.

At one time during my service with the grey brotherhood, I became acquainted with a man who was doing a long sentence for a crime of which he

was innocent. Charley was not what you would call a good mixer. To the contrary, he was rather morose and for the most part kept to himself, but he was civil at all times to those who spoke to him or sought his company. I had taken a liking to the man and frequently took pains to pass a pleasant word with him, although we were never chummy to the extent of his revealing very much of his past. Some men will carry their burdens alone, avoiding companionship, and constantly brooding over their troubles, whereas they might ease the strain by friendly and sympathetic companionship. Other mentalities find they must unburden themselves or go crazy if the strain is not relieved. But Charley was not of that sort; he kept his troubles to himself.

One morning on our way to work I passed the usual cheery good morning, but received no reply. Long experience had taught me to respect a man's temperament, especially in the early morning hours, for a sudden awakening from pleasant dreams of home and the great outside, to the immediate miserable surroundings and iron bars, is not conducive to a peaceful mental attitude. I passed up the incident as the result of a morning "grouch," and went on to work without further comment.

My own station was not far from his bench and I could observe his movements without apparent effort to do so. I noticed that he "soldiered"

on his work all the forenoon, which was very unusual for him as he was considered a fast and competent workman. When I spoke to him again in the noon line-up, he still refused to answer. Shortly after dinner, the guard in our department pounced upon Charley as a cat would on a mouse.

"Say; youse; whatinell's the matter wid yuh? whereinell d'yuh tink yuh are? Dip into your work or I chase yuh to de house. Hear me?"

Charley merely looked at him with what to me seemed an expression that he had not heard a word the guard had said, although his racuous voice was plain enough fifty feet away. At Charley's steady, undisturbed look the guard flew into a rage and cursed and raved, and all the while Charley stood looking at him with a dull sort of an expression which was unfathomable. The guard finally sputtered himself out of cuss-words and ordered Charley to the house, where he was reported as giving the guard the "dog-eye," (stony stare) and was sent to the dungeon on bread and water for ten days.

What was the matter? Oh, nothing much—leastwise it gave no concern to the officials then in charge. He had merely received a letter stating that on account of technicalities his case could not be re-opened in court and there was nothing that could be done towards his release—he must do the rest of hi time—an innocent man.

The blow left him bereft of speech, action or reason, for he had counted much on release and could not understand the injustice of man's inhumanity to man. Yet to this addle-pated guard, hired by the State to look after its unfortunates in a decent way, Charley was but a victim to punish in order to satisfy the cravings of an inhuman brute. Instead of inquiry as to the cause of idleness in one who had always shown skill and activity in his work, he was cursed and punished as a shirker. Psychological foresight would have told anyone with a grain of sense that something very unusual had happened, but what could be expected of a guard so devoid of ambition as to prefer the business of herding men at half the price paid to the common sheep herder?

To one incapacitated for manual labor, the business of prison guard is not out of place, but for a well-developed, well-muscled, able-bodied young man, the very ignominy of herding men should be an incentive for him to leave such work to men with years of experience in the business of life, whose natures have ripened to the lessons of humanity, charity and kindness—three essentials entirely foreign to the average prison guard.

Yes; by all means, "put men in charge who are humane, big in mind and soul." But first take the prison out of politics, or else the job will fail. Many a warden who has accepted his appointment

with the full intent of doing something for humanity's sake, has found his efforts blocked by politics. He has found himself hampered with inefficient help who hold their cheap positions through politics and cannot be discharged. Perforce he must abandon plans which might have added much to the welfare of society. Do not let this fact escape you—that whatever adds to the good of the prisoners, adds just as much to the good of society, for these same prisoners eventually become members of society; whether for good or evil depends largely on their treatment by the hirelings of society. Do not forget that. It is one of the necessary essentials to prison reform.

To suppose that what is to the convict's interest must be diametrically opposed by the guard, is, alas, to often the rule in the American Prison System. The interests of each are mutual, if only such an understanding could be brought about. An injury to one is an injury to all, by which it is not meant that some form of chastisement is unnecessary. Cruelty is unnecessary at any time, and while it is true that certain individuals require a severe shock to bring them to their senses, yet there are ways in which that can be done without resorting to cruelty.

The morale and discipline of the prison depends largely on the guards and under officials. The warden cannot attend to all details of the prison;

these are left to the hirelings, and when they are inefficient, there is no limit or estimate to the harm they may do, for in ten minutes time they can and do destroy an undercurrent of good feeling toward the administration which the warden may have spent months in building, and because of politics, he is unable to discharge them. A guard's first duty is, or should be, to treat his charges as men, not as beasts, but the authoritative atmosphere prevailing with the younger set of guards, smothers that feeling of harmony which should exist between the two. Too often the guard fails to remember that men under him have not always been convicts, and that it is only a matter of time when they will again take their place in the free world. He should remember also, that many of his charges are men who have occupied superior positions in business and social circles before temptation got the upper hand, and that a large majority of them are his superiors mentally if not authoritatively. He should take advantage of the great opportunity he has for being of real service to humanity, and by his daily acts toward prisoners prove that he is really interested in their welfare, and willing to assist them in every way to a better understanding of life and its responsibilities.

Every human being is incarnated into this life for some given purpose, and it is prejudicial to our

better judgement to suppose that anyone is entirely beyond redemption. Some of the greatest saviors of the world have received their first lessons in prison. A man who has been through the searing flames of adversity and despair, and who still retains his manhood, can be of more real value to the world than a whole congregation of goody-goody nonentities. It is within the power of every guard and official of a penitentiary to do a great deal in this line—to furnish light for every prisoner in his charge—to substitute brotherhood for class hatred.

If a prisoner has at some time offended a guard, there is no valid reason for him to hold a personal grudge as is usually the case. True, it is human nature to retaliate—to play even—revenge; but the right-minded guard will arise above petty grievances and prove himself of superior clay by trying to arrive at a clearer understanding of the cause of the offense, and in so doing, disarms resistance, dissipates angry passions, overcomes evil and strengthens good.

Men are pretty much the same, inside of prison or out. Treat men right and they will defend you. Once a prisoner is firmly convinced that an officer is interested in his welfare, and the welfare of those about him, he will be a friend of valuable assistance in maintaining proper discipline. This

applies to a majority of prisoners confined, though not all, as there is a certain per cent who refuse to recognize official power at any time, whether for good or evil.

A system of espionage established by many officials and guards is an evil which breeds contempt and distrust right from the start. There are many cases of men who have been goaded to deeds of violence by one inmate who is set to watch and report every action of a fellowman. Such fellows are called "snitches," and a guard who employs a snitch is not to be trusted at any time. No more is a snitch to be trusted, for he is so low in character that, failing in gathering truthful material to report, he will resort to lies in order to gain favor. It must not be inferred that violation of prison rules effecting the whole prison should not be reported. A breach of trust, or any act calculated to work hardship on the interests of all concerned, should receive proper attention, but never is a spy system to be tolerated. Example teaches better than precept. Negation can do nothing for men; it may pull down but it can never build up; it puts an end to faith and hope. Evil cannot be put down by practicing evil, but rather by real, active working goodness.

It is much more pleasant and infinitely more profitable to all concerned, to treat inmates with kindness and consideration. Men are slow to give

up their faith in physical force as necessary for the guidance and correction of others. Force is a very palpable thing and dispenses with all inquiry as to causes and effects. It is the short way of settling matters without weighing arguments. It is the summary logic of the barbarians among whom the best man is he who strikes the heaviest blow or takes the surest aim. In fact we have been so trained and educated in a belief of the efficiency of force that we can scarcely imagine it possible that the framework of society could be held together, were the practice of force discarded and that of benevolence and justice substituted in its place. And yet doubts are widely entertained as to the efficacy of the policy of force. It is suspected that force begets more than it is worth, and that if men are put down by violent methods, a spirit of rebellion is created which breaks out from time to time in violent deeds, in hatred, in vice and in more crime.

The penitentiary is a method of slavery equal to anti-bellum days, if not worse. It robs men of every incentive to do the right thing at any time, and makes of him an irresponsible creature unfit to battle with the problems of every day life he is bound to meet after release. On the other hand it must not be inferred that a system of maudlin, sentimental coddling should be substituted—far from it. Such a procedure would result in weak-

ening the prisoner, morally and mentally, leaving him in a worse condition than ever.

A course of systematic training, teaching the prisoner self-reliance and responsibility could, and should be introduced with very little effort in all penitentiaries, requiring only that men of ability be placed in charge regardless of politics or political graft. Place the control of penitentiaries in the hands of instructors, humanitarians, psychologists, men who understand humanity—from the superintendent to the lowest in rank, and in no time they will be releasing to the world useful units to society in place of the dangerous criminal —a product of the present System.

CHAPTER V
THE SHYSTER LAWYER

SHYSTER.—*A trickish knave; one who carries on any business, especially legal business, in a mean and dishonest way; one without professional honor.*
—*Webster.*

CHAPTER V

THE SHYSTER LAWYER

ONE OF THE calcified barnacles attached to the rotten old hulk of the American Prison System—one of the greatest evils existing around our county jails and courts of justice—is he of the evil-eye—the shyster lawyer. He is a species of *genus homo* in a class all by himself when it comes to petty thieving and downright rascality. The slop barrel prowler, the doormat thief, the grave-yard ghoul, even the steal-candy-from-a-kid sort, must all step back for the shyster lawyer when it comes to the transaction of affairs exceeded in their dirtiness only by their smallness. He is the king-pin of crookedness and a curse to all humanity with whom he deals, yet without him penitentiaries would go out of business.

Shyster lawyers have brought the profession of law into such ill-repute that in these days even judges of highest tribunals are looked upon with suspicion, and, too often, with just cause, while everyone forced to deal with the supposedly honest attorney is fearful of being worsted. The strange part of it is that the honorable members of the bar

do little or nothing to put a stop to the nefarious practices of their crooked brothers, except on rare occasions when the graft becomes too strong to keep under cover. Why this is so cannot be answered by the victims of malpractice in courts that are supposed to deal in justice, but it is a fact which cannot be denied.

The shyster lawyer, sometimes called the ambulance chaser, is a hanger-on of the county or municipal court, or both. His knowledge of law is extremely limited and he depends upon robbing the robber for a living. As a rule, the offender caught with any amount of money on his person, (if it cannot be proven as immediate stolen property, in which case it is confiscated by the arresting authorities) will hire the best "mouth-piece" (attorney) to be had with his funds and fight himself clear. So it is the victim who is financially down who turns to the shyster as the last resort, even knowing he will be worsted in his fight for liberty, regardless of his guilt or innocence.

Many an innocent man has been sent to the penitentiary through these shysters, aided by the judge and prosecutor, just because it saved trouble and the victim was the goat not worth mentioning. For instance: In a certain neighborhood a number of burglaries have been committed and the police have been unable to locate the perpetrators. A sleuth, with a reputation at stake, looks over the

ground, selects a victim with neither friends or money to speak of, makes the arrest and with great gusto, plays to the newspaper reporters, telling what a fearful struggle he had in landing his man, etc., when in reality there were no chances taken for trouble; being innocent, the victim was pinched before he suspected anything wrong. At the time of arrest, the victim is a stranger in a strange land, fully aware that he is up against it, and if it is the first time that he has been arrested he turns in terror to grasp the first straw drifting by. The shyster is close at hand at all times, apparently, and by consulting the "fly-bull" who made the "pinch," ascertains how much money the victim had. Parenthetically it may be added that the shyster and the sleuth generally divide, fify-fifty.

The dupe is visited and told that the outlook is bad, and that if he stands trial he will be convicted anyway, and get the limit. Good logic that —to one who has no friends in the immediate vicinity. The poor dupe turns that over in his mind, and at the next visit agrees to do as he is told. In the meantime he has given the shyster, or thief of a lawyer, an order for all he has in the front office, even to necktie and socks and suspenders, whereupon he is hustled into court, pleads guilty to a crime he has never committed, and off he goes to the penitentiary to be made into a first-class criminal.

That cannot be true, you think. Well, it is true and practiced every day in criminal courts. You must bear in mind that care is taken not to arrest anyone who is liable to make trouble. The judge knows it, the prosecuting attorney is aware of it, and the sheriff also, yet such practices are allowed to continue.

Here is just one of the many instances that came to my knowledge while residing with the grey brotherhood. This particular lad that I have in mind found employment in a strange town and his first week's pay was in the form of a check for $18.00, handed to him Saturday night. He cashed the check, paid a few small bills, bought a meal ticket for the ensuing week, and while preparing to go to work the following Monday morning, the sheriff appeared with a warrant and led him off to jail. The lad, a boy of twenty, I had known of for several years previous, as one who was an exceptional workman in his line as pressman, and one who had never before been in trouble of any sort. He was one of those kind who know their trade thoroughly but was positively too green in the ways of the world to even think of trying anything crooked. After landing in the penitentiary, in relating his troubles to me, he said:

"I had been in jail but a short time when I was summoned into the waiting room and intro-

duced to a man who posed as an attorney. I had never been arrested before in my life and didn't know the sort of cattle I was up against. This mark insisted that I give him the details of my trouble, saying that he could get me clear, or possibly have the case dismissed without ever coming to trial, as there was really nothing to it.

"I started to tell him about the case when he interrupted me with a question as to how much money I had. He demanded an order for it, and, like a fool, I gave it to him, whereupon he beat it for the sheriff's office to cash in and that was the last I saw of him for several days. He didn't even stop to hear my tale of woe.

"After nearly a week he came back and demanded $25.00 more. At that time it was impossible for me to dig up twenty-five cents, let alone $25.00. He then insisted that I give him the names of relatives and friends that he might write and get the money. Now, I had never been in trouble before and didn't propose to let my people know of this, so I refused him. He then asked me what else I had in the office, and I told him of my pocket knife, small dictionary, keys, etc., and dinged if the piker didn't want these. Well, I gave him all but my socks and underclothes, believing he was going to help me out. That was the last I ever saw of him. He had skinned me and hung my hide on the fence to dry while he prowled for other game.

"I appeared in court without a lawyer and got a jolt of from one to five years on the charge of obtaining money by false pretenses. Now, wouldn't that jar you. There were no false pretenses about the work I performed for that lousy $18.00, and I had no way of getting my employer into court. He was the guy that slipped me the phoney check, but no one would listen.

"I was not the only one to suffer at the hands of this dirty shyster. I know another prisoner who paid him $74.00, all the money he had, and then had to appear with another shyster appointed by the court. He never laid eyes on the first one again. Still another victim paid him $25.00, and that was the last of the money and the shrimp. Both of these boys are doing time here right now. This phony lawyer would take neckties, socks, pocket knives, suit cases—any old thing he could lay his hands on and then beat it.

"Coming down on the train I told the sheriff of other cases I knew besides my own, and asked him how it happened that such things were allowed. He replied that the grand jury had several times recommended that this particular attorney be disbarred, but that no action had been taken by the county attorney or other lawyers for the reason, he supposed, that this particular shyster had it on the rest of them to such an extent that they were

afraid to start action, fearing an exposure of themselves."

Briefly you have the story of many a lad, not only in this, but in other prisons. It seems that some one must be convicted, and with the connivance of the prosecuting attorney and judge, the innocent often suffer while the guilty go free. This boy, a stranger in town, had cashed a check of which he knew nothing further than the fact that it represented his week's wages. The man who wrote the check was not even called up in court. The victim had been furnished. Do you wonder at the agitation for the office of Public Defender?

This youngster, green in the ways of the world before he landed in the penitentiary, innocent of crime, keenly feeling his unjust disgrace, and harboring the usual resentment against society in cases of his kind, on release, attempted to use the knowledge gained during incarceration, by committing a real crime and is now doing time in another State, and will continue to be a ward of the commonwealth the rest of his life.

The following article written by a prisoner in an eastern penitentiary, is brimming over with truth and is applicable to every city in the country.

"One of the many afflictions which beset a prisoner and from which he has little protection, is

the shyster lawyer. The money he takes from the man behind the bars, and his relatives, is enormous. He preys upon the ignorance of his victims and he has no conscientious scruples whatever. The pitiful result of his operations never bothers him.

"He is generally a good talker, and to hear him tell it he has unlimited influence with the Governor, the Board of Pardons, the Warden, and anybody and everybody that might possibly be of aid to the prisoner in securing his release. All he has to do is to give the order and the whole legal machinery of the State will be turned upside down. His chief assets are a glib tongue and plenty of cheek, and what he does not know about law he makes up for in 'bunk.' He is in evidence from the prisoner's arrest up to the time of his release, except when he is wanted. He can secure a pardon, a commutation of sentence, a parole, a good job inside the prison, or anything the prisoner desires, and all that he asks for is a stipulated sum in advance to be used as expense money.

"All the information he is looking for regarding his prospective client is his financial resources. If the amount is satisfactory the shyster obtains an interview with him, and after ascertaining his requirements he assures his client 'there is nothing to it;' all he (the shyster) has to do is to whisper

in the judge's ear, and 'you'll be on the street next week.' The prisoner naturally inquires what the lawyer's fees will be, and the shyster names a sum two or three times in excess of the visible resources of the victim, but even if he states the impossibility of raising any such amount, the shyster will take the case for whatever there is in sight, be it ever so small.

"After securing the money and forgetting to give a receipt, the shyster visits the relatives and friends of the prisoner, and by means of his usual tactics, obtains from them all the money he can. After he gets all that it is possible to collect, he will forget all about his client—until he hears he has more money.

"Many men are here for long terms, and in only a few cases is there any possible chance of obtaining their release legally; but it is a curious fact that about ninety per cent of these men believe they have a good case and could get out if they had a competent lawyer to fight for them. The shyster knows and takes advantage of this state of mind, and when a proposition is put before a prisoner or a prisoner's relatives and friends, that his release can be obtained only through Mr. Shyster's influence or legal ability, it can readily be understood how easy and how pitiful it is to rob his victims.

"Many prisoners in penitentiaries are illiterate and both they and their relatives are very poor. This swindling by the shyster causes untold suffering in many instances; not only this, but it is positively cruel to many of the prisoners' mothers, wives and children, who have been dependent upon the prisoners' support, to raise false hopes when the shyster knows well that they can never be realized.

"The shyster is reasonably certain that he will never be called upon to account for his nefarious operations, as his knowledge of the law and the character and ignorance of his victims furnish many loop holes by means of which he can escape if called to account.

"A shyster lawyer is a disgrace to any community, even a penitentiary. He is a despicable grafter, on the same level with the quack doctor and the door-mat thief. The Bar Association would get rich pickings if it would send investigators to prisons to make inquiries regarding the conduct of lawyers who must of necessity, be under suspicion."

However the shyster lawyer is a necessity—for the System; but for him the penitentiary would be short on population. The criminal with money hires brains to defend him—and escapes the penalty; the moneyless, petty offender without friends,

who hires the shyster with a piece of red string and a collar button—where else would you expect him to land? It is just such abuse throughout the land which caused the Public Defender movement. Mr. W. O. Howard, of the Supreme Court Chambers, Appellate Division, Troy, New York, regarding the Public Defender, says:

"My experience as District Attorney, and on the Bench of the Supreme Court leads me to the firm belief that there should be a Public Defender to look after the rights of the poor. The creation of such an office would be not only justice, but economy."

In the foreword of "*The Public Defender,*" a book by Mayer C. Goldman, Mr. Howard continues:

"The poor man cast into prison, no matter how innocent, is helpless and hopeless. He cannot cry out to justice, for nobody hears his cry. He is the prey of the policeman, the captive of the jailer, the butt of other prisoners, the plaything of the lawyers. He is immured beyond human reach. His protestations of innocence are drowned by the ribald jeers of hardened criminals. He walks to the court house fettered to brutes and degenerates. He is brow-beaten and threatened by his captors until his heart sinks in despair. As he is arraigned before the judge, he stares about the court room,

but he sees no friend, no hope. Every technicality and delay and defense and avenue of escape known to the cunning of lawyers are available to the rich man indicted for crime. The poor man under indictment is permitted to go through the forms and appearances of a trial—a trial which he knows will be a travesty. Therefore he pleads guilty and disappears from human view. And this is the triumph of civilization—a triumph for those who have money; ignominy for those who have not. The provisions for a public defender should be imbedded in our statutes. No law could be more economical—none more humane."

The real need of a public defender as well as a prosecutor, is evidenced in a speech delivered by Mr. Samuel Untermeyer, a most distinguished American lawyer of the New York bar, in which he says:

"Unjust convictions amongst the poor and helpless and especially among our ignorant foreign population, are more frequent than we care to admit. The most prolific abuses occur in what are known as "assigned" cases in which the defendants and their families are too poor to furnish bail or employ counsel. They come to the bar of justice crushed in spirit, and if innocent, in mortal terror of the law and resigned to any fate. Their assigned counsel, whose retained clients are his

chief interests, easily convinces himself that he has done his duty to his pauper client if the prosecutor will accept a plea of guilty to a lesser form of crime or be content to recommend a moderate sentence. And so, before the fellow knows what has happened to him and in less time than it requires to tell the story, he takes the advice hurriedly given him as he stands quivering at the bar and so he finds himself on the way to prison. That such a system results in innocent men being branded and punished as criminals admits of no doubt."

There are scores of eminent lawyers and jurists who favor the Public Defender movement as a protection against the shyster lawyers and malpractice in courts. They know by experience whereof they speak, and their very approval—these men who are in close touch with court outrages—is acknowledgement of the great evil practiced upon the poor and unfortunate, upheld by American courts and the American Prison System.

CHAPTER VI
IMPARTIAL LAW

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.—Article VI, Amendment to the U. S. Constitution.

CHAPTER VI

IMPARTIAL LAW

PRESIDENT WILSON in a speech delivered, in Chicago, January 11, 1913, said: "It is believed in this country that a poor man has less chance to get justice administered to him than a rich man."

Wherein President Wilson spoke the truth, nothing but the truth, but not the whole truth. He might have added: "It is an absolute and indisputable fact, to the shame and disgrace of American courts!"

There is also an old saying that the law is no respecter of persons, a fallacy worn threadbare in its repetition. How many criminals are doing time whose monetary gain for the offense committed ran into the thousands, compared with the petty criminal whose offense netted him less than $25.00? Really, there is no comparison; the man with money is seldom convicted and still more seldom goes to prison.

Crimes without number are committed by men and women of wealth and political pull—crimes

which would send the ordinary mortal to prison for a long term of years, yet the wealthy get off with a nominal fine at the most. This fact does not furnish an excuse for the poor to commit crime, by any means, yet it does furnish an incentive, and thousands are punished who, if they had money to fight their cases through the various courts of last resort, would go free. The rich do not feel the burden and injustice of present conditions; with them money is the power behind the throne, but on the shoulders of the poor the burden falls heavy, for even in this day and age of the world, when it is supposed that imprisonment for debt is illegal, we find men are jailed every day for lack of means to pay a small fine.

With all the complicated machinery built up to protect society, it is those who are least able to stand the gaff who are punished the most, while the well-to-do are told to go and sin no more. Is it then a fact that the machinery of the law is made solely for the rich? If anything more than a nominal fine is imposed upon the wealthy offender, he immediately appeals to the higher courts and by the time the case is up for hearing in the last tribunal, time and money have worn off the sharp edges of his criminal offense and he is usually exonerated while the Goddess of Justice is fixing her back hair which has become disarranged through the long years the judges have spent in taking the case under advisement in its turn.

It has often been suggested that more judges be appointed and thus keep the dockets cleared, but such procedure never has been and never will be successful until different methods have been obtained in all courts. England has one judge to every 350,000 people while America has one for every 20,000 inhabitants, yet with a smaller force, fewer judges and less juries in England, the work of 40,000,000 is done far better than in America where court quibble has no limit. In England there are less cases tried by jury. If the case is of minor importance the lawyers are put under commanding pressure from the bench to hasten their efforts proportionately, the judge balking any attempt to introduce non-essential testimony and argument, or to delay the progress of the trial unduly. The great majority of cases are heard and finally determined before counsel leaves the court room, and appeals are few in number.

A noted lawyer once stated that financial criminals in the United States stole over ten billion dollars in one year. The aggregate penitentiary sentences served by the entire fifty big crooks who committed the theft, was less than is usually handed the poor fool who steals ten dollars. Appeals and technicalities did the business, but as such procedure costs money, the ten dollar thief does time for the million dollar crook, proving that the law is, indeed, a strong respecter of persons.

However, some one must be punished as an example that at no time should the poor emulate the rich.

"Ignorance of the law is no excuse because every man is presumed to know the law." Why presume a lie, or an impossibility? In more than one-fourth of the cases appealed, learned jurists themselves disagree as to what the law is. Why then, are the ignorant, or even the common-place people—the majority by large—supposed to know that which leaves wide margin for argument among professionals? Legislators every year manufacture new laws which are foisted upon an already law-ridden people, yet the mill grinds on, making laws for one case which will offset others in another case, each State manufacturing its own brand—in many instances deliberately ignoring the United States Constitution. Perjury is supposed to be punishable in all States, but there is not a court in existence where perjury does not predominate over truth, yet how often do we hear of punishment for the crime of false testimony, even when it swears away the life of a human being, which happens more often than is thought for.

Before the American Prison System can be brought to anywhere near the acme of perfection, there must be uniformity and equality of laws in

the courts of every State. At present the laws vary in different communities to such an extent as to border on the ridiculous. For instance: Henry Seigel, merchant prince of New York, wrecked a bank and robbed his employees of a million or so and got off with a small fine. At about the same time, over in Somerville, New Jersey, Oscar Phillipson, a fourteen-year-old boy, the sole support of his widowed mother, was sentenced to four months imprisonment for shooting a rabbit out of season. For food, the boy killed a rabbit—an animal recognized as a pest the world over, and a judge with a dome of solid ivory made a criminal out of the boy. It would be interesting to know just how this same judge would treat Seigel if the merchant prince had been tried before him. Or, how the boy would have fared had he been in Seigel's court. Just so long as society allows such discrimination, (and it happens every day in some form or other) just so long will the incentive remain to emulate the big crook.

Judge Brewer, of the United States' Supreme Court, after forty-three years of judicial experience, declared that justice is impossible. He says it is a human impossibility under our present laws, to weigh all the factors which should be taken into account in deciding the guilt of the prisoner. If, as Judge Brewer says, impartial justice is impossible, then how far are we drifting from any semblance

of justice when the pull of the banker, the clamor of a mob, or a sensational press demands release or punishment for one accused of crime, even before the facts are known or the defendant has had an opportunity to enter a plea of any kind?

"What is the cause of crime?" probably has as many answers as there are crimes, but one thing is certain, the law itself in many cases is the cause of more or less crime. The old-time trust in our courts has changed to distrust if not contempt, while the very actions and decisions of these once honored bodies within the temples of justice, have been the means of reducing them to the sad spectacle of ridicule and derision. For proof of the foregoing, read the daily press, where you will also find that it is not always the judges who are so much to blame as the everlasting craze for new laws sanctioned by the free power given to crazy legislators.

CHAPTER VII

CIRCUMSTANTIAL AND PERJURED EVIDENCE

The number of innocent men sent to prison and the gallows on circumstantial evidence, is astounding; but what can be expected of a System that employs prosecuting attorneys adept in the art of obfuscation, allowing the defense, through lack of means, to be represented by a lawyer unworthy even of the title.

CHAPTER VII

CIRCUMSTANTIAL AND PERJURED EVIDENCE

EDITORS AND OWNERS of newspapers, especially the big dailies, do not seem to realize the omnipotence of their publications in setting forth before an open-minded public, in great scare heads, the criminal court data of the day. A man may be arrested and cast into jail to await the convenience of the prosecutor to be brought to trial. Along comes an enterprising reporter who secures a few facts of the case, and proceeds to make an impression on his chief by writing a glib, flowery-worded story around the unfortunate man in jail, who, for all the reporter knows, or cares, may be entirely innocent.

Generally the story is hyperbolical and wholly unreasonable. It is natural to suppose that the reporter realizes this as his hands are flying over the typewriter, but he thinks of nothing but the present opportunity for sensation. Then, too, the "chief" must see that he, at least, is doing his

part in the terrific whirl of newspaperdom, and is earning his salary with a possible promotion. But what of the man at whose expense this scathing arraignment is furnished? What effect in his future trial is this going to have upon the weight of opinion of the general reading public? And two-thirds of the public are newspaper readers. Does not the eye of man and woman, alike, search the front page to the last line of the last page, to see and devour just such criminal sections? Most certainly.

Well; after reading to the last word, how many analyze the story for its virtue? And the man in jail; what of him? That, usually, is a question answered long before he is brought to trial. Has not the public with its own eyes read the atrocious story of the man who committed such a loathsome crime? He was apprehended on the premises, consequently he must be guilty and warrants all the vindictiveness of the law. The newspapers have condemned him; that is enough. Day after day his case is willfully and maliciously agitated before the public, recounting possibilities which never happened only in the degenerated brain of the reporter, until the man in jail looms out in the public mind as some venomous creature that the law has taken into its clutches to condemn and crush.

When a jury is called to try this arch fiend, is it reasonable to suppose that they enter the jury box with an open mind? True, they are supposed to; but can they? Have not the newspapers, with the prosecutor's aid (it is to his advantage to aid the press in building up a strong prejudice against the accused) poisoned the well of justice in such a manner that when the bucket is drawn up and swung clear, it contains the blood of malicious intent? In jail the accused is up against a hard proposition. He may have no influential friends coming to his relief and no money with which to employ counsel, consequently in all such cases he is disposed of unjustly.

The newspapers are cruelly unjust in this respect, and in taking unfair and willful advantage of the unfortunate are the means of sending many an innocent man to prison or the gallows. Every atom of circumstantial evidence, whether imaginary or real, is twisted and bent to construe real guilt and they hesitate not at all to deliberately lie in order to gain their point. They have determined to find guilt; scant thought is given to the idea that a man might possibly be innocent, which often happens to be the case, and the victim is hurled into prison or eternity, practically on the strength of newspaper reports. Ninety-nine per cent of newspaper reporters belong to the shyster

lawyer class, with degenerate brains that would not hesitate to exploit their own mother for the sake of a little cheap notoriety.

It is not much of a task to convict a man on circumstantial evidence built up by the newspapers aided by a few suggestions from the prosecutor, especially if the prosecutor himself be of a criminal turn of mind, which not infrequently happens to be the case. For instance:

A few years ago a certain retired judge of St. Paul, Minnesota, appeared before the State Board of Pardons pleading for the release of two negroes serving life sentences, convicted and incarcerated when the judge was a prosecutor, thirty-four years before. The negroes, R. L. Underhill and George Washington, were arrested and tried, principally on newspaper circumstantial evidence. A house had been robbed and the burglars, escaping in the darkness of a stormy night, shot and killed a policeman, who died without being able to make a coherent statement. The two negroes were picked up and, as prosecutor, the judge had no difficulty in securing a conviction, as the city had become deeply stirred through the newspapers clamoring for a victim. The unfortunate men were sentenced to life imprisonment.

Years passed and the prosecutor became a judge, noted for his keen wit, his marked ability

and a clear, far-seeing judicial mind. After many years the judge retired and for nearly a decade had not been a figure in public life, until bent, old and feeble, seeking to clear his conscience of his enormous crime, he appeared before the Board in an effort to make amends before he passed to the Great Beyond.

Astounding! Impossible! Yet a fact, nevertheless, with documentary evidence to prove it. And who can say this was an isolated case of wrong conviction? False, perjured and circumstantial evidence, properly worked up by the newspapers, guided by the hand of an over-zealous prosecutor, will nearly always furnish a victim for the gallows or penitentiary. It is one of the peculiarities of law and order—the machine built up by society for the protection of—well; who does it protect?

Some three or four years ago, a defendant in a New York court was charged by a large retail concern with having procured goods and money from them on a forged check. After spending several months in jail, the defendant secured evidence by commission, that at the time the check was passed in New York, he was west of Chicago and had not been in New York within two years of the time. The evidence was conclusive. The identification of him two years after the crime was committed was a mistake, yet his attorney, *after*

that testimony had been received in New York in proper shape for use at his trial, *urged* him to plead guilty, saying that sentence would be suspended and he would go free if he did so plead, while if he did not he would be forced to stay in jail several months longer. He was without funds and his family was in want, and if it had not been for the advice of others in jail at the time, who were acquainted with the ways of lawyers and judges who connive together to secure a conviction, he probably would have done as the shyster wished him to do, for he was in dire straits.

He finally refused the offer of immediate liberty, insisted on a trial, was offered a discharge if he would sign a release for any claim he had for false imprisonment, declined to do so, and within a week was discharged after getting another attorney interested, who had the indictment quashed. He later brought suit and recovered damages.

Here was a case of a lawyer and a judge plotting together to send an innocent man to prison, knowing that once there, his opportunity for establishing his innocence would be *nil*—the penitentiaries are full of such victims of broken promises of judges and prosecutors. The jail prisoner who takes the word of either in case he is innocent, is sure to regret his mistake before his penitentiary sentence is finished.

And then again, the police are not averse to fixing evidence that is weak, and in order to secure a conviction will stop at nothing, not even murder, in their third degree methods. For some reason or other the police force of every city seems to labor under the impression that with every man "sent over the road," so much is added to their credit with the public. This feeling or attitude has sent thousands of innocent men to prison who have returned to the world as criminals of a dangerous type, with revenge and retaliation as their sole theme in life.

After serving sixteen years in prison (Sing Sing) John Boehman was awarded a pardon and gained his liberty on New Year's day, 1912. Justice Kapper, in the Supreme court at Brooklyn, quashed two indictments against Boehman, one charging murder and the other grand larceny. Boehman claimed he was the victim of the police system of fixing a case. The prisoner was sentenced to life imprisonment on the charge of the murder of two young men who were found dead in a Brooklyn hotel. They were asphyxiated and robbed. The police arrested Boehman, charging him with the crime. Boehman swore that he was in a music hall the night of the crime, and that he had trouble there with a bouncer named Schmidt. The proprietor of the place, Sol. S. Weinthal, also knew that Boehman was in the place, but these

two important witnesses would not come forward to testify, so Boehman was convicted and sent up for life. In prison Boehman met a physician who heard his story and promised to aid him. After a long search Weinthal and Schmidt were found and they finally made affidavits proving the innocence of Boehman. They said they feared the police power against them if they testified for Boehman.

In 1911, the Board of Pardons of Ohio, discovered that George Ury and Marsh Lindsley were falsely imprisoned for life for a crime they did not commit, because two of the officials who had charge of bringing the real culprits to justice, tampered with witnesses and evidence in such a way that two innocent men were convicted despite the fact that they tried to prove an alibi, which the Board found was duly established. The officers were afraid of their positions if they did not convict someone. After serving ten years in prison these two men were pardoned, the Board branding the conduct of the State's prosecution as subject to severe criticism.

I am going into some length in citing cases of perjured and false evidence on which men are sent to prison, for to my mind it is one of the greatest crimes in the calendar of our courts of so-called justice. I have personally met a few such cases and the sequence is awful to behold; yet it is prac-

ticed every day, not, however, meeting with success at every turn, as it frequently happens that some disinterested person steps in with a few sharp words to the powers that be, who, finding the intended victim to have a possible friend in sight, are more than willing to drop the case. Think for yourself how you would like to be in the position of any one of these, and think again that it might happen to you if surrounding circumstances were right to claim a victim. It is then that the public defender becomes a necessity.

I have previously stated that there is one law for the rich and another for the poor, but even the rich fall into hard lines occasionally, so stupid is the system of prosecution in its efforts to claim a victim, regardless of innocence or guilt, as the following true story describes:

Shortly before the Christmas holidays in 1916, merchants of New York began to offer traveller's checks of the Canadian Bank of Commerce, all in denominations of $200 each. Circulars were issued warning that these checks were likely to be spurious. They were being or had been uttered by a man operating under the names of Lawrence Farrell, C. Dundas, J. A. Paget, and others, whose real name was said to be Lawrence Koegh. This man, said the circular, was likely to operate just before the Christmas holidays and preferably on a

Saturday afternoon, so that banks being closed, he might have a day or two to make his escape. In spite of such warnings such checks were taken in by New York merchants on the afternoon of December 23, 1916.

The manner of operating was of course, very simple. The man entered the store, bought some rather costly article and offered the forged traveller's check in payment, explaining that he was a Canadian mining man in New York to do some shopping. In the rush and flurry just before the holidays, the merchants were perhaps a little less cautious than usual, but who questions a traveller's check of a national bank in any event?

Several days later the merchants awoke to find themselves neatly defrauded. Detectives were notified who took up the quest for the forger. Descriptions of the man were obtained and pictures of one, Lawrence Koegh, were sent broadcast. "Christmas Koegh," he was called, because of his habit of operating at holiday time. On December 31, two similar checks were offered merchants in St. Louis, one of which was refused and the other cashed.

On the evening of December 23, at the same time the forged checks were being taken by New York merchants, a mine operator of Toronto, Canada, Alexander P. McCauley, a man of wealth

and the highest standing, walked into the Hotel Hamilton, of St. Louis, and was greeted in the lobby by his young daughter. McCauley had made the trip from Canada to spend the holidays with his wife and children, a son of twenty-one and a daughter of fifteen, his wife being a native of that place, McCauley himself, having lived there. McCauley registered and settled down to enjoy the holidays in a prosperous way.

Meantime the search for "Christmas Koegh" was going on without results. A picture of him, a man of not more than forty, was filed with New York officials and identified by some of the clerks who had waited on him when he presented the forged checks. The St. Louis police, too, began looking for a man of the same description. On January 3, they arrested McCauley, a man fifty-six years old. Later he was indicted for forgery and held in $5,000 bail. On January 8, three more indictments were brought against him for forgery in New York.

But before this happened McCauley was subjected to the indignity of being "mugged," in St. Louis and copies of his photograph were sent out to New York. A few days later, Prosecutor Kilroe was going through the records of the case when he made the startling discovery that the original picture of Koegh had vanished from the

official envelope and another had been substituted —that of McCauley, taken by the St. Louis police long after the records in New York were filed.

On top of this came another devilish movement. A friend of McCauley in St. Louis, who had heard that his man was already in trouble in New York, wired his attorney in the metropolis to take care of McCauley's interests there. This attorney went to the District Attorney's office, looked at the picture in the records and saw the substituted likeness of McCauley. That fact alone convinced him. "That's the man," he said, "beyond a doubt." He shook his head and went away wondering. In the street he met another lawyer and told him about it. The second attorney seeing an opportunity to make a profit, went to the merchants and tried to settle the claims and get the checks. All refused to turn them over. The natural result is clear. They immediately decided that the prisoner was the guilty man and that he had sent a representative to buy up the claims and straighten up, thus hoping to get off. By such coincidental means was the suspicion against the prisoner strengthened.

His defense was as simple as any honest man would offer. He asserted that he had not been in New York on December 23, and offered to prove an alibi, but the prosecution would have none of it.

He offered the most convincing character testimony from members of the Canadian parliament, high Dominion officials, bankers, brokers and politicians. One would naturally suppose such proof would be sufficient. Even when the salesmen were asked to identify the prisoner, they picked the wrong man, but finally changed their minds and declared that McCauley was the forger. One clerk, asked what sized cloak he had sold the forger, said, "forty-one." McCauley was measured and found an ample forty-three. But even that was not satisfactory. Besides, their were these suspicious facts: McCauley was from Toronto; he was a mining man; he had been taken in St. Louis a few days after checks had been passed there; and then, had not some one been around trying to buy up the claims and settle the affair?

Finally McCauley was released on bail while the investigation continued well into the following April, when "Christmas Koegh" walked into four Chicago shops and cashed the remainder of his two-hundred dollar Canadian Bank of Commerce traveller's checks, and then vanished as he had from New York. At this the prosecution had to give it up and McCauley was released from further prosecution.

Had McCauley been without money and influential friends, he, too, would have been committed

to a living tomb of helpless humanity. Not for a moment do I claim that every reasonable effort should not be made to convict the guilty, but it is a well known fact that too many of our court officials are too anxious to build their reputations on the number of convictions placed to their credit; naturally someone must suffer for their ambition.

In presenting a few cases of misapplied justice, we will take the case of Andy Toth, who spent twenty years in a cell for a crime committed by another. In 1891, Michael Quinn, an employee of the Edgar Thompson steel works in Pittsburg, was murdered by a fellow-workman who struck him from behind with a crowbar. Andrew Toth, an Austrian, who could scarcely understand a word of English at that time, was lined up with five others in the coroner's dock and a crowd of Austrians and Huns were summoned to identify the guilty man. One of the Austrian witnesses happened to stumble over a cuspidor and Toth laughed at him. The Austrian's eyes blazed with anger, and a moment later he pointed out Toth as the man who committed the murder. Sheeplike, the others followed his example, scarcely realizing the importance of what they were doing, for they were densely ignorant, and had but a slight knowledge of the English language. Toth was frightened and bewildered. He protested his innocence but

few could understand him, and those who could would not believe him. The case was railroaded through the courts and Toth and two of his companions were sentenced to be hanged.

The evidence against him was so flimsy that public sentiment was aroused and the sentences were commuted to life imprisonment. Twenty years went by and at last an old man lay dying in a hut in Austria. He told the priest he could not die until he confessed a great wrong he had committed. His confession was sworn to before a magistrate at his own request, wherein he stated that he was the real murderer and that Andrew Toth and his companions were innocent. After nine months of red tape, Toth was released. His comrades had died in prison.

Charles Benton was released from the Louisiana State prison after he had served seven years for a crime he did not commit, convicted on circumstantial evidence, as was also the case of George Frick, who, on the same day, was released from the Ohio prison after doing ten years' time charged with a crime of which he was innocent. George Weems was sent to the Fort Madison, Iowa, prison for life, and twenty years later was released when it was discovered that he had been nowhere near the scene of the murder of which he was charged.

Then again: Roxer Williams, a Texan, quarrelled with his neighboring ranchman, Bernard Carter, and stabbed him. Thinking him dead, he rolled the body into the dry bed of the Pecos river, and fled. A few weeks later a decomposed body was found and identified as that of Carter. Williams was arrested, convicted and sent to prison for life.

Twenty years later, Bernard Carter, a wealthy citizen of Seattle, was reading an account of the exposures of cruelties in the Texas prisons, and noted the unusual name of Roxer Williams as one of the convicts who had testified before the investigating committee. It was the same Bernard Carter who had been declared murdered.

In the dry bed of the Pecos he had recovered consciousness, had been taken in by roving Mexicans, and for months had no recollection of the past, finally drifting to Central America, where he had accumulated a fortune. He had always understood that Williams had fled the country and had never been arrested. Carter lost no time in proving his own identity and securing Williams' release, taking him back to Seattle, where they both now live.

A still more serious case happened in Chicago some years ago, when Conrad Meyer was arrested for the murder of James Johnson, whose body was

found in a room in a suburban hotel with a bullet through his head. Meyer and Johnson had been bitter enemies and had quarrelled on the night before the body was found. A long chain of circumstantial evidence was linked together to prove Meyer's guilt. The accused man declared he knew nothing of the crime. He said he had left Johnson that night a mile away from where the body had been found, but he could bring no witnesses to prove his whereabouts at the time, and the evidence against him seemed very strong. It was proved that he made threats against Johnson, and on the strength of these threats he was convicted, sentenced and hanged.

Five years later Owen McNamara, who had long been known as a criminal and a dangerous man with a gun, lay dying in an attic in the slums of Chicago. When it was plain that death was very near, a priest was called. "I want to call in witnesses, Father. I have committed many a sin, but there is one wrong I have done that is worse than all the others put together. Years ago an innocent man went to the gallows for a crime of mine. It is too late now to save him, but I can restore his good name to his relatives before I die." And then to the group of men who stood beside his bed, he told of how he himself had killed Johnson in a quarrel, and had been haunted for years

by the ghost of Meyers, who had gone to the gallows for the crime.

Here is a case from a western prison which vividly illustrates the uncertainty of circumstantial evidence, no matter how conclusive it may appear.

A Spanish lad called "Little Jimmy," had a mining claim he was working and one day a new prospector built a cabin on an adjoining claim. One morning several months later, the new prospector was found missing and his cabin burned to the ground. In the ruins were found the charred remains of a few bones, from the appearance of which it was believed that murder had been committed, and suspicion pointed to "Little Jimmie." He was arrested, convicted and sent up for life, escaping the noose by a narrow margin. Seven or eight years later, a visitor wished to see "Little Jimmie" at the Oregon prison. Who can describe the feelings and thoughts that surged through the convict in stripes as he gazed on the face of the man he was supposed to have murdered? The prospector had just returned from foreign countries, and for the first time had learned of Jimmy's plight, which he made haste to relieve. At that, it was a full six months before a reluctant law could be made to release an innocent victim. The charred bones found in the cabin were those of an elk.

After serving many years of a life sentence for murder, Lambert H. Jones, of Sioux Falls, S. D., was freed on conclusive evidence that he was innocent. He had been accused of killing an old man named Henry Van Roden, with whom he had quarreled. Circumstances were against him, and he was convicted. Later, it developed that, Van Roden had been killed by a cattle thief whom he had caught in the act and who allowed Jones to bear all the blame.

At Youngstown, Ohio, in the early eighties, a man was hanged for the murder of a young woman, Lizzie Grombacher. Nearly thirty years later a man named Charles Herzig hanged himself to a tree near Minot, S. D., and pinned to his coat was a written confession that he was the murderer of the girl.

Sam Coltrane served ten years in the Oklahoma prison for the murder of a cousin, escaping the gallows by a few hours. In 1914, another man confessed to the crime for which Coltrane was being punished.

After twenty-four years behind the bars of the Minnesota prison at Stillwater, Andrew Wold was released after the belated conclusion was reached that he was innocent.

James Baker, who was serving a twelve-year sentence in the Great Eastern prison at Philadel-

phia, was released in 1917 as a case of mistaken identity. His conviction was the outcome of circumstantial evidence of the flimsiest sort.

Not until he had been behind the bars for five years did the presumption of innocence arise in the case of Joseph Soko. He was released in June, 1917.

Nine years ago, Matt Anderson, a fisherman of Astoria, Oregon, disappeared without apparent cause. His nephew, Carl Carlson, was found to have considerable personal property that belonged to the missing man, and because of this there were suspicions that he had made away wlth his uncle. Carlson, finding the grip of circumstantial evidence tightening around him, and unable to prove his claim that his uncle had given him his possessions, finally fled in fear, and those who suspected him found further reasons for their suspicions. Recently Anderson was found in the hospital for the insane at Salem, where he had been for eight years. It seems that he had been threatened with bodily harm on account of having been a witness in a criminal case, and to protect himself, concluded to leave Astoria, first giving most of his personal possessions to his nephew, Carlson. He then went to Portland, became intoxicated, was drugged, and those arresting him had him examined and sent to the hospital. Carlson has not yet been located.

The foregoing are just a few cases picked at

random, here and there, from various localities where they are all a matter of record. There are hundreds of similar cases where perjury and circumstantial evidence are allowed to stand without rigid investigation, which should prevail in every court.

The Leo Frank case in Georgia, where conviction was made possible purely through class hatred, and the Charles F. Steilow case, of New York, convicted through third degree methods of the police, are still fresh in the minds of the public.

What crimes are greater than these committed by the courts themselves? Is it any wonder that the public defender has become a necessary factor in the administration of justice, in order to protect the average citizen from the mechanisms of the law and the American Prison System? Then again, no defense is made possible so long as the American courts allow circumstantial evidence to stand against the accused. The intent of the law is that all men are innocent until proven guilty. The working of the law is that all men are guilty until proven innocent, a thing almost impossible in many cases, especially if the victim is without money, for the laws of America are ruled by money.

A convict just released from prison with five dollars in his pocket and no friends in the immedi-

ate vicinity, spends his first night of freedom in a strange locality. Police have been notified of his release which is not only unjust, but unnecessary as well in most cases, for his out-going suit speaks more convincingly than the hotel register as to his former residence. During the dark hours of the night a robbery is committed in the neighborhood, and to make short work as well as a reputation, the police pick up the "ex," even though not a shred of evidence exists as to guilt—he is just out of the penitentiary, and that is enough.

The "ex" is jailed, brought up for trial. and having no money, an attorney is appointed by the court to look after his interests, perhaps drawing a small sum from the county for his services. Such an attorney is usually just out of law school, anxious for his first case, or he is one of the despicable shysters, picking up court crumbs, who, in either case, figures that if he expects further business from the same court, he must make as little trouble as possible, otherwise the court will, in the future, appoint someone else who is not so anxious to make a reputation at the expense of the taxpayer. And besides its a botheration to the judge anyway.

Such a "mouthpiece" (as lawyers are called in prison parlance) visits the prisoner once, possibly twice, but never the third time. He is not, as

naturally would be supposed, one whit interested in the case beyond his first question: "Have you any money or valuables, or have you any friends who will help you out? Come through, now, and give me all you have. All right. Now when you come up for trial you plead guilty, because you have no chance as you are just out of prison and everyone knows it. I will use my influence with the judge to get you a light sentence, but if you insist on fighting the case you will get the limit. So long; I will be in court when you come up for trial next month."

All this is delivered in a sing-song rapid tone allowing the victim no chance for speech before the "mouthpiece" is gone. The poor devil has nothing to do but think it over, knowing full well that no effort will be made in his behalf before the judge. He also knows that what he has been told is true, for he has probably been an eye-witness to just such proceedings, and so he finally consents to the "flim-flam" and pleads guilty to a crime he never committed with the hope burning strongly that he will get off with two years instead of the five or more he would be likely to draw if he stood for his rights.

And the very hell of it is that it works in more cases than the outside public would believe. He draws two years from your American court for a

crime of which the police, the judge and the prosecuting attorney are morally certain he is not guilty, but for which he would draw a much longer sentence if he attempted to fight his case without money.

Miss Kate Bernard, eminently well versed in sociology, says: "Ten per cent, or thereabouts, of all prisoners in the American prisons today are there because they pleaded guilty in order to secure a minimum sentence, simply through their personal poverty or fear—a poverty that would not admit them to secure legal advice competent to maintain their plea of innocence against the splendid ability of the paid prosecutors of modern civilization."

Personally I believe Miss Bernard has expressed her estimate rather freely, but whether the estiimate be more or less is not of so much importance as "why should there be a reason for any estimate at all?"

What manner of court is it that allows a man to plead guilty to a crime of which he knows nothing? Is this the triumph of civilization, that a citizen may be sent to prison because he has no money? The American looks too gently on such tragedies—tragedies of the underdog.

CHAPTER VIII
PRISON SENTENCES

Usually the length of sentence given a man before the bar of justice, depends largely on the disposition of the sentencing judge at the immediate time —whether his liver be in working order; whether or not he has left home in the morning with a before-breakfast grouch.

CHAPTER VIII
PRISON SENTENCES

EVERY PENITENTIARY in the country has its quota of forgotten prisoners, *i. e.*, the old-timer who was sentenced to a lengthy term so long ago that his case has been forgotten, except, perhaps, by the "oldest inhabitant," who might or might not, barely remember that such a man was up for trial some twenty-five or thirty years ago. The prisoner's family and friends, (if he ever had any) may all be dead; there is no one left who remembers him, and the prison officials are the only ones who are aware of his existence.

Year after year they have watched others who have been sent up for crimes more atrocious than theirs—prisoners with former bad prison records—walk out to freedom, the open air, the sunlight, home and friends, after only two or three years of imprisonment. But there are no letters, no visitors for the "forgotten prisoner." No one makes inquiry for him. They are forgotten. In agony and bitterness, which they must bear in silence, they realize as no one else can, the grim, terrible injustice that is so often committed in the name of the law.

For crimes such as they have committed they see that one judge will inflict a life imprisonment on one and perhaps but twenty years on another—it all depends upon the sort of man the judge may be, and largely upon the condition of his stomach and liver at the time of pronouncing sentence. If these forgotten men have any faith or hope left in them it is a miracle and well can they appreciate the words of Thomas A. Edison: "There is no justice in law," even though he had reference to civil law at the time.

As different States vary in laws pertaining to the same crime, so, too, do they vary in sentences for the same crime committed. One might well expect to find some sort of uniformity in the several codes of the States of the Union, but as a matter of fact the wildest diversity and the most irreconcilable conflict prevails.

For example: The maximum penalty for the most common of crimes, that of perjury, in the State of Connecticut is imprisonment for five years, while in Kansas life imprisonment may be inflicted. Other States vary from one year up with fines ranging from $50 to $2,000. In Alabama robbery is punishable by death or not less than ten years, according to the degree, while in Arkansas the penalty is one to five years; Massachusetts, life; Minnesota, five to forty years, and so on, each

State with a law of its own. One would naturally suppose that such severe penalties as life imprisonment for robbery would act as a deterrent to such crime, but in this, as in capital punishment, the penalty and treatment under the present American Prison System is no deterrent at all.

Rape, in a number of States, is punishable by death, while others consider the chastity of their womenkind worth but one year in prison. The maximum for incest in Virginia is six months; in Kentucky, twenty-one years, while Oregon considers her children worth all the way from three years to life imprisonment.

On January 12, 1918, in Chicago, William Cline was sentenced to life imprisonment for stealing two hams, while in Oregon, a pair of second-hand shoes worth a $1.25, if purloined by a tipsy reveler, is sufficient cause to interne the drunk for a period of one year in the State bastile; but if one steals a large amount of money or property in any State, a fine and a few weeks in jail will satisfy most any court. Why this should be so is an enigma, unless it be that the courts pay tribute to the acumen of the culprit who is capable of getting away with large sums. This very fact also furnishes the incentive for many a criminal of low degree to try his hand in high finance, and that he fails is due to his lack of brains. There are very

few States conforming in the punishment of crime and it is self-evident that the different codes are arbitrary and not rational. They are based on a wrong and outgrown theory whose inconsistencies tend to create a contempt for law, and contempt for law tends to create criminals.

The disrespect for law in this country is still further enhanced by the inequalities of sentences or penalties administered in the same State. At one time Nebraska enacted a law whereby the minimum penalty for cracking a safe by the use of explosives and extracting a dollar, was twenty years imprisonment, while the maximum penalty for taking the same dollar was imprisonment for life. The same legislature that enacted this law, moved to indignation by the brutal assaulting of a little girl about that time, near the capitol grounds, and then robbing her of what was dearer than life, made the maximum penalty for rape, twenty years imprisonment, and the maximum penalty for leaving a little girl worse than dead, was the same as the minimum penalty for cracking a safe. Do we need any more proof that our legislatures are organized on the dollar plan and that the daughter is worth less than the dollar? If we must boast of our civilization let us do so with moderation while our statute books show so much lack of plain common sense.

CHAPTER IX

EMPLOYMENT FOR PRISONERS

Being worked means degradation. An incentive to work means civilization. Without an incentive to perform ordinary tasks, your institutional system is a failure.

CHAPTER IX

EMPLOYMENT FOR PRISONERS

WHEN CONSIDERING the subject of prison management and treatment of prisoners, the first and foremost question that arises is that of employment for men inside the walls. No system working toward the reformation of the prisoner is complete without providing lucrative and remunerative employment. Idleness is an absolute bar to any system, for leaving any number of men to their own devices for any length of time, with no means of occupation, is giving, or rather forcing them into opportunities for questionable and demoralizing amusements.

On the other hand, hard labor, with no other object save that of keeping men employed, is no better. No effort is made or interest taken in any form of labor when the incentive to work is lacking. Rockpiles and such are merely improvements, and poor at that, on the cranks and treadmills of Old England, They are all alike, chiefly to carry out the old idea of revengeful and vindictive punishment. In this they succeed and with this result;

they kill all that is good in the prisoner and check whatever ambition he may have of reforming, besides depriving the State of the profit it would make if the prisoner were furnished productive work.

And then again, it is questionable if the State is entitled to a profit from the labor of its penal charges. The day of contract labor is past. The prison sweatshops were productive of the worst results, doing more harm to prisoners than any amount of idleness, and are responsible for the old and condemned penal system, which in turn is responsible for a large per cent of our criminal class of today.

Violators of the law are sent to prison as punishment for offenses committed against outraged society, the punishment falling to a far greater extent on those dependent upon him before he committed a crime, no provision being made under our present system to care for the women and children who may be left in dire distress, thus forcing them oftimes, to the street, where in turn they are picked up and brought before the night court, adding still further to the long list of unfortunates, as well as to the expense of the already over-burdened taxpayer, who, in most States, must pay for the keep of the offender who meanwhile, sits in idleness, or if he works at all, it is work

that is unprofitable to the institution as well as himself, for penitentiaries where contract labor is or was in force, have never been self-supporting and never will be under the contract system.

Those who decry against the tendency of humanitarian methods of punishment should remember that the more barbaric and severe the punishment, the less will be the number of convictions and consequently the less fear of punishment. In view of the fact that executives, courts and jurors are influenced by the punishment prescribed for criminals, if the punishment is not wise, humane and just, it results in the escape of a large number of prisoners from any punishment at all, especially when the crime committed is a minor offense. It follows that while improvements may be made by reforming court procedure, no permanent or complete relief can come except by a fundamental change in the entire penal system. The defendant must be compelled to right the wrong he has committed insofar as possible; he must become a producer and be required to support himself, and, if possible, those dependent upon him, and to society return that which he has wrongfully acquired. The death blow has been struck at the contract system of penal labor and the problem confronting us now is to devise a substitute.

A penitentiary is an intra-mural city whose

population consists of what may be termed as "weaklings," whose natural aversion to work is proverbial, yet that aversion more often arises from the fact that incentive is lacking, hence it follows that whatever the nature of the employment, it must be productive, bearing with it remuneration such as is worth while. A wage should be paid commensurate with work done by the prisoner, thereby stimulating the incentive and insuring a higher grade of workmanship.

If proper workshops were installed in every penitentiary for the manufacture of commodities using raw materials insofar as possible from the home State, with a wage paid the convict at the prevailing outside scale, and the products placed on the market at prevailing prices, there would at least be provided an opportunity for the offender to take care of his dependents and to make restitution, dollar for dollar, wherein his victim would receive the benefit, as against the present system, wherein absolutely no benefit accrues to anyone, other than furnishing jobs for police, lawyers, judges and keepers, who for that matter would still be on the payroll, with the difference of drawing their salaries from those responsible for their jobs, rather than from the law-abiding citizen.

Naturally there would necessitate a diversification of occupations aside from the main factory,

but such diversifications need not be so extensive as to cause unnecessary expense to the State, as there is always something to do for even the "weak" member where industry abounds.

Rather "far-fetched." Well, perhaps so; but have you a better plan? So long as our laws are to remain on the dollar and cents basis, why not place the prison in the same column? This is not set up as a solution to the crime problem; it is merely a suggestion of what to do with the criminal after he is convicted.

Let each and every inmate in prison pay his own way out of funds earned entirely inside the walls. If one commits forgery, robbery, or any other monetary offense, for any amount, let him work in prison at prevailing wages, (the product of his labor to be sold at regular market prices) until the full amount is returned to the victim, the State reimbursed for all expenses of arrest, trial and conviction, together with his per capita of all prison expense, including board, clothing and all maintenance cost; all this to be paid in full from his prison wages, no other money to be applied on the account under any circumstances.

The petty larceny thief would get off with short time by working diligently, but while doing his work he would figure that so long as he had to work and draw pay for exactly the amount of work

he performed, and no more, he might better work outside and retain the benefits than to work inside and pay it all to his victim and the State, besides turning over a stipulated amount for the maintenance of his family, providing he has one. On the other hand, big crooks like Seigel, of New York, who wrecked a bank and robbed his employees of two million dollars, would hesitate a long time before taking a chance with the certainty of a life sentence staring them in the face.

Occasionally a court allows judgment to be entered against a corporation to the amount of $5,000 (usually a great deal less) for criminal carelessness in taking human life. Very well; life is cheap these days. By the time a murderer made up $5,000 and costs out of his day labor in prison, he would complete a longer sentence than the average lifer puts in. Placing crimes against nature, such as incest, rape and sodomy, etc., in the same column of uniform law at $5,000 each, the perpetrator would have plenty of time to outgrow his desires before opportunity for repetition would be presented, besides which his victim would have a generous supply of the most healing salve on earth—the dollar brand.

Above all your prisoner would be furnished with an incentive to work, an essential lacking in most all penitentiaries under the present system.

He would, indeed, be forced to work or forever remain in cold storage, and while doing his work the taxpayer would be relieved of the expense of his keep and the expense of general prison maintenance—all of which would be deducted from the wages of those who make these institutions necessary. The average inmate of prisons today considers that the least he can do is too much, for which they cannot be censured when all is taken into consideration, as there is no incentive to feel otherwise aside from one's personal industrial inclinations.

On the other hand, to prevent railroading an innocent man to prison, a price of restitution would have to be set, to be paid to the victim by his prosecutors in case his innocence should be established after his sentence to the penitentiary. Such procedure would be absolutely necessary in order to block all cases of attempted jobbery.

Aside from the work inside the walls, the prison farm should be a large factor in solving the labor question. Here should be employed only those accustomed to hard labor, or those desirous of instruction in agricultural pursuits. In fact, workmen for any department in or about the prison should be selected according to their ability to show results. One of the greatest drawbacks to prison labor today is the fact that men are con-

stantly assigned to departments entirely out of line with their usual avocation, if they are fortunate enough to have a trade. An iron moulder is more apt to be put to work in the tailor shop than at work more in keeping with his natural muscular activity, while an office man is lucky if he finds himself assigned to nothing worse than a wheelbarrow. The general scheme seems to begin "reformation" of the prisoner by fitt ng square pegs in round holes,

Under the plan of paying prisoners the scale of outside wages, road building would not be as profitable as heretofore, yet it could be carried on to the benefit of all concerned. Good roads are the salvation of any and all communities, almost, one might say, regardless of cost. Enough has been accomplished in road building in several States to prove the value of this great work, and it remains only to figure out a cost system per mile to be paid for the building of such.

The whole costly Prison System is a failure, partly because of the contract system which exploits the prisoner for private gain, while the prisoner's family suffers for necessities. From the standpoint of the System the prisoner is an ideal laborer; he does not strike; he does not ask for a living wage; he cannot declare his soul as his own, and in more than half of our State prisons he is

leased to the contract system for twenty to fifty cents per diem. These prices include heat, light, power, machinery and rent. The prison is merely a huge factory with slaves as employees.

Minnesota enjoys the distinction of having the finest and most complete working system for its prisoners of any State in the Union, With an appropriation of two and a quarter million dollars they built the prison and equipped it with machinery for the manufacture of farming implements and binding twine. The products of the prison are distributed for the benefit of the people of its own State, and besides saving the farmers huge sums of money, the prison is self supporting and returns to the State treasury some three hundred thousand dollars per annum. The prisoners are paid a small percentage according to the amount of labor performed, which enables them to leave the prison with more than the customary five dollars allowed by most prisons. However, in Minnesota, as in all other prisons, the victim of the offender receives nothing in the way of restitution for wrong committed upon him or his property, wherein lies one of the greatest, if not the greatest defect of the whole Prison System.

The idea is prevalent that a majority of convicts hate work and will avoid doing one iota more than they are forced to do. The majority are wil-

ling and prefer a regular task rather than spend long hours in idleness. But the work must be productive, and if an incentive existed in the way of remuneration, and especially if release depended on honest labor, even the most slothful would form habits of industry and thrift, which might lead them to continue work as a means of a living after release, which is far more than the present System teaches.

In order to solve the question of competition between free and convict labor, some brilliant genius conceived the plan of limiting consumption to certain channels. The "State use" plan was born, amidst a chorus of hallelujahs. Prisoners might work, but their product was to be consumed only by the State, in its offices, in its hospitals, its asylums, its schools, its prisons. The State use system may be necessary as a temporary expedient to get around certain prejudices and to hoodwink the labor unions, but as an economic measure it is simply ridiculous. Nobody stops to consider that a broom is a broom, whether made in prison or out of prison, whether used by a charwoman in the State capitol, or by a housewife in her kitchen, and if the State takes over a thousand prison-made brooms it must be just one thousand less brooms made by free labor—precisely the same result as if they were sold in the open market.

Another form of the State use system, which has captivated many, is the plan of using prison slaves in public construction work, principally in road building. Nobody would listen to commandeering a number of free citizens, taking them from their families and from remunerative pursuits and making them work gratis on the road, yet when it is proposed to take the same number of men who have been guilty of some offense and make them build roads in competition with free labor, we hear of the great economy effected. The governors in their messages, tell of how much they have "saved the State," and receive the votes of the automobile owners and good roads societies at the next general election. The wrong is not in using prisoners for road building; it is a healthful occupation; it keeps the men out of doors and to a certain extent places them on their honor not to escape. The wrong is in the boasted saving to the State, which is in the form of money rightly belonging to the men and their families, and to which the State has no more moral right than if it were to hold up a gang of free laborers at the day's end and take their wages from them. It is a form of legalized highway robbery. It is said that the great construction works of ancient times were made by slave labor. That is just what some of our States are proposing today. If it is sound policy for a State to save by owning slaves and

using them on public works, then the policy of economizing by using prison labor is a sound one; otherwise it is not, except so far as the State may justly save by doing its own work rather than by sub-letting to contractors.

The problem of prison labor today mainly resolves itself into the question whether slave labor is still to be permitted. When we have set our faces resolutely against that, the difficulties will largely vanish. As long as we apply the principles of slavery to our prisoners, as long as we assume that the right of the community to protect itself and restrain evil doers, carries with it the right to possess ourselves of them soul and body and to pocket the proceeds of their slave labor, so long shall we be confronted with an insolvable problem, so long will it continue to bob up in some new form.

A man is a man in prison or out; his muscles are the same, the product of his labor the same and it must be treated as such by paying him the value of his work. When prison labor and free labor is on a parity as wages are concerned, there will be no longer a question of difference. Free labor has its problems, and the adjustment of wages for prisoners is not a simple matter by any means, but just as it is coming to be recognized that the free laborer is entitled to an equitable share of the product of his work so must the same hold for the

man within the walls. Penal servitude must be abolished *in toto.* When the prisoner is paid current wages, his product must be sold at current prices; he ceases to be in any sense more the competitor of the free laborer than the latter's own companion. Everything like the State use system is to be decried, not only because it is fallacious in itself, but because it draws attention from the real issue—the laborer is worthy of his hire.

Sentences of today are mere matters of popular revenge without benefit to society or anyone else. Where prisoners are employed it is merely a form of slavery, profitable to the contractors only. Death, a fine or imprisonment are the punishments meted out, anyone of which are inadequate to fit the offense, whatever it may be, as death does not restore the dead, neither does imprisonment compensate the victim to a hold-up, nor is the fine paid to the one injured. It is all a matter of vengeance and punishment, forms of retaliation that have failed of their purpose ever since the world began. If imprisonment is absolutely necessary, (and for the protection of society we have no substitute at hand) then let the prisoner pay out on his offense while doing his time under whatever reformative system may be in vogue in his respective prison.

"The productive incentive is not only lacking on the part of the men, but also very often on the

part of prison officials, or at least on the part of the shop foremen. The latter are not in competition with business. The output of the shop is seldom at its peak load. The inmates are, perhaps, not only inclined to lie down on the job, but the prison methods, whether initiated by the prison itself or emanating from some official higher up, are sure to make it quite impossible to conduct the shops on a business basis."

CHAPTER X

PRISONS AND RELIGION

The reason the church has failed in its message of Christ to men in prison is because it has neither understood men, nor the conditions under which men have to live as prisoners.—J. F. Wright, Leader of the Pathfinders of America.

CHAPTER X

PRISONS AND RELIGION

ONE OF THE QUESTIONS raised by sociologists is, what are the possibilities of reforming men by religious teachings and gospel preaching?

To begin with, reform is not even a remote possibility for many because they have a grim heritage from immoral ancestors which eliminates them from the scheme of things. This class should be restrained from propagating their species, and hospitals, not penitentiaries, should be their abiding place. Now, I hear my orthodox friends loudly shout, "The grace of God can save everyone." It can, but it don't.

"Well, then," the enquirer asks, "what is accomplished by the hordes of emissaries who visit our jails and prisons preaching contradictory doctrines?" The answer is, nothing. Here and there are found a few isolated cases, but so rare as to eliminate them as a factor in the problem, forcing the conclusion that evangelism has proven futile in its efforts to transform the life of the criminal classes while in their prison environment.

It often occurs to one who understands, has the outside world any exact knowledge of the real conditions in penal institutions, relative to the matter of religious instruction for the inmates? It is quite well understood that the majority of inmates require moral training in order to be fitted to enjoy liberty and attain success in life. The christian people demand that these places be supplied with religious teachers, but they do very little to ascertain what sort of talent is obtained, or if any of it is in any manner adequate to the demands upon it. The contradictory methods employed have neutralized what little sane teachings they have received, therefore little can be hoped for the methods now employed.

None can be rash enough to state that evangelical teaching and preaching in the penal institutions has met with anything like success. There is no field of human endeavor that supplies the same number of perplexing problems. The man of prudence and wise judgment is one of the greatest assets of prison reform work, but mighty few of them ever wander our way.

There is no class of people calling so piteously for spiritual aid as the man behind prison walls. They are prejudiced and have a right to be, for they are met on every hand by charlatans and mountebanks who know little or nothing of the

philosophy of life, and do not seek to improve themselves. They constantly appeal to the sentimental and the emotional in the prison habitue. They do not know that this sentiment has long since burned out in the fires of hell and that to reach these men it must be through the medium of a keen knowledge of the problems of life which they are vainly trying to solve.

The slumbering fires of the soul must be touched by a magic wand to rekindle it into life again, and cause it to burn with undiminished power during the life of one who has been afflicted with the demon possession. They have been promised impossible things and the promises have not been fulfilled. It is interesting to note the eagerness with which they give ear to an able speaker —someone who knows them from the ground up, and can reach into the inner consciousness of these men and ring the bell to the door of their desolate and aching hearts.

Men in prison are isolated Sin isolates of its own action, and only as a surface fact is there a comradeship in evil. Treachery, like a foul fiend, lurks in the breast of the man who has only self and the loneliness of his heart to assuage. Good men carry other men's burdens and help to carry other men's loads, but in this respect we are fearfully alone. You cannot bear another's sin nor

save another's soul, in prison. We live in a world of our own, a place of desolation and woe, ignorance, sin and spiritual decay, and the help of the average is vain and fruitless. It is the moral sting in our troubles that makes the help of man of little avail. We are led to declare that nothing short of the supernatural will help to rescue us from the horrible pit and look the world in the face.

Here is a problem for christian workers to solve. The men who are suffering through lack of education and religious training should have some hope through the efforts of the social workers who should train their guns on thick-headed society and show that conditions are such that reformation is impossible.

For instance: One county in a certain State recently sent twelve men to the reformatory, Of this number three were illiterate and none of them from christian homes. Society had created them and is now vainly seeking to save them by placing them in a training school of vice, of which the penitentiary is the university. Then society wonders why young men do not reform.

The common herd—yes, and many of the uncommon, also—those who should have better sense, regard prison reform as a method of pandering to the vice of inmates and giving them a soft time during the period of their incarceration. They

seem to regard it as a sort of sickly sentimentality inspired by the christian forces. There is nothing farther from the truth.

The American Prison System is against reform and you cannot overcome the System in its devilish man-wrecking devices, by simply preaching the gospel of Jesus Christ to its victims. The American Prison System does not believe in Jesus Christ, but rather has the devil for its master. Prison reform is a moral issue, but the System does not believe in morality, and in order to reach the convict heart through moral suasion, the System must first be abolished for something that is sane and reasonable.

A large majority of convicts are, in the broad meaning of the word, weak; a still greater percentage are, in every sense of the word, inefficient. We know that the weak ought to be strengthened, the inefficient made efficient and the sluggish and pessimistic caused to rouse themselves and "put on the armor of light that they may be able to withstand in the evil day." But how is this to be accomplished?

In all prisons various religious denominations are represented whenever the opportunity presents itself, and occasionally they furnish plenty of food for thought, but in most instances we hear only about some all-powerful God, who is ever at great

distance, and rewards or punishes, as the case may be, only in that distant world. How many times do we hear about the prodigal son? We have men in prison who could not read the story of that erring youth if their liberty depended on the action, yet, even with all their gross illiteracy, they can, in the customary sing-song way, repeat it word for word just as the story is set forth in *Luke 15: 11-22.* We hear it many times each year; it is a good story. In fact all bible stories contain merit, and were they only given to convicts along with touches of practical christianity—the kind that deals with problems Here and Now—then great good might be accomplished through them.

As an inmate of the Utah prison appealingly writes:

"We need something else besides prodigal son stories and invitations to raise a hand if we wish the prayers 'of God's people.' If society would save any of us and protect itself, let society see to it that we have a chance to hear a little reasoning from time to time about the great battle of life that men who Do Things are facing every day. May heaven speed the day when the tired eyes of convicts behold a real hustling executive of the business world, dressed in a business suit, standing on the chapel stage in front of them, and showing through sound reasoning from cause to effect, that

in this world no man can get anything worth having without efficiency, energy and effort.

"Give us, oh kind heaven, just one breath of life. May society's heart soften toward us, and may we enjoy the blessing of society's message delivered through some man—some Real man—who will explain to us something about the rules of the game of life, as he himself plays it from day to day. May society take the time to find out whether, after all, we are so different from other human beings, and then may that society see fit to sit down and devise ways and means for helping some of our weaker brothers to help themselves. For in that way only, Oh kind heaven, men may be kept from drifting into the hopeless and rapidly growing 'criminal class;' in that way certain convicts may be induced to abandon forever the idea that society ought to take them, as entirely helpless beings, and give them something for nothing, and in that way even men behind the bars may prove to the world"—

"That men may rise on stepping stones
Of their dead selves to higher things."

There is no sphere in life from the palace to the brothel that religious convictions do not play an important part. The denizens of the underworld are religious to an extent that is a marvel to the student of social conditions. The fraternal

spirit is more in evidence among them than in the world of fashion and aristocracy, and when they face death they immediately seek for some assurance of the continuity of life. The ethics of Christ are a governing power in their midst to a far greater extent than is found among the average sister and brother of respectability, insofar as concerns the three great precepts—Faith, Hope and Charity.

But this is not the class who embrace religion when they reach the prison for the very potent reason that they are not cowards as a rule, and they look with suspicion on the propaganda which promises to absolve them from all effects of wrong doing. When a man makes a statement that he is glad that he came to prison, for here he found Christ, he is talking for the hope of some imaginary effect, and one not only scouts his execrable philosophy, but entirely disbelieves in his sincerity. No man can build a character monument on that sort of fallacy. His monument is brass which corrodes in the night. Their accession of a religious dogma only intensifies their sin of posing for effect which never, or rarely ever, becomes efficacious.

There are some notable cases of rehabilitation in prison, but in the great majority of cases it has had no relation to a religious life. Their resur-

rection to a newness of life was due to the fact that they were men of character and principle, and the period in their lives when they were under heavy pressure has passed away and the individual, the man, has come into his own. The man who comes to prison from such a life is in a state of chaos, mentally and morally. It requires time for him to work out his problem.

The average inmate of a penal institution doubts the sincerity of every one who approaches him on a given subject, and in too many instances his fears are well grounded. Now comes the advocate of the conversion propaganda who says, "An individual can pass through a religious experience and be reconstructed or made over." They do not take into account the hereditary taint which is so evident in many cases. They are taught that the past will be all forgotten and that the burden will all roll away. They neglect to state that our cities are infested with cheap lodging houses and speak-easies where the habitue of the jail and penitentiaries are wont to assemble—men who are pensioners on the bounty of philanthropic societies that are doing all in their power to propagate the spirit of idleness and crime.

Regeneration is a deep-seated process, prompted and inspired by industry and a determination on the part of men to divorce themselves

from all former associations and with the thorough understanding that they cannot depend upon a superficial profession of a religious life.

Now there is a very wide difference between a religious education and a religious profession. The man who sets himself to the task of studying the problems of life can do so in the penitentiary as well as elsewhere, for nearly all classes are represented here. Also the prison libraries are congested with books of the "Mother, Home and Heaven," type which are usually allowed to rest in peace on the shelves, but which may be obtained for the asking. Above all is the fascinating record of an ever fascinating subject—the transformation of character.

How is it accomplished and what is the process of elimination of the bad and the infusion of the good? Sentimental religionists shriek, "Come to Christ; He can save you. The greater the crime, the greater the saint."

There is a mental and psychological reason for the act and it is a fallacy to teach men that the results of a long and dismal life of sin can be put away in a day. Added to this is the fact that every sound and sight about a place of this character is a flagrant contradiction of the religious appeal. It is a strange hallucination which impels the church and its kindred organizations to ham-

mer on a wall of adamant. The array of statistical lore negatives all claim for the collective application of the conversion propaganda in penal institutions.

Now the basis of right conduct is right thinking, but there is very little to suggest right thinking in a felon's cell. If their purpose is to hold wild beasts in leash, they are certainly well equipped, and it is only the survival of the fittest that leaves them showing the least scars. There is nothing about a penal institution that suggests reformation to say nothing of regeneration. The failure of those who attempt it is logical. You might as well try to grow roses in a cellar as to grow character in a cell. There is mighty little use for a christian civilization to come to men and shed maudlin tears and tell them that you love them when every act of the said civilization spells HATE with capital letters. If the heart of the universe would lose its hate, the prison would lose its population.

Rational attempts at reform must begin long before the prison is reached. Before we can reform a man we must know why he did wrong. The cause cannot be disclosed or removed by punishment; neither can it be removed by religious profession. It can only be done by individualization of treatment and always with the co-operation

of the individual. The church can furnish the most elaborate machinery for reformation but nothing can be accomplished unless the man himself first presses the button.

I am not forgetting that prison reform as we understand it—so far as it has gone—is the result of labor and ceaseless agitation on the part of good men and women who hate sham and who are the real bone and sinew of the movement, but it must also be remembered that good men and women are not all religionists.

Again, christian men and women who are in sympathy with religious reformation and the effort to put men in touch with the best in thought and practice, should not cease to labor to that end that something of a substantial nature be accomplished along that line of endeavor. It is foolish not to recognize the great work that has been done by good people along these lines, and those who effect to despise it and make light of it, are ignorant of some of the greatest achievements of the human intellect.

No small number of prison inmates realize this great truth—in fact no one but the fool could deny it. At the same time we realize that the religion of *service* is the one that counts the most in the almost hopeless battle against a System which coldly ignores both God and humane humanity in its administration of the law.

There never has been a time in the period of evolution of religious thought when we needed a more inspiring and direct christian leadership. All around the circle of doubt and despair where men and women are going to enlighten and uplift and restore, the cry is raised for a gospel which shall define the needs of the fallen and therefore be sure and victorious. There is a pressing demand for a new inspiration of the christian faith.

These are some of the problems the christian faith has to meet in the contest between sin and righteousness in the penal institutions. Up to this hour it has fought a losing battle. No exact formula will gather up the mystery and make plain the difficulties and doubts with which this great work is beset.

In conclusion I beg leave to say to workers in prisoners' aid societies and to sociologists in touch with the outside, that when you are called upon to address a body of people, admonish them to teach their sons and daughters, and to hold them to a clean life, for such practice will accomplish much to abolish feeble-minded homes and scarlet women. Teach your children, not with the rod and harsh punishment, but with love and precept, that only in this manner can they measure to the full stature of mental and physical force, and become progenitors of a race to whom the struggle for clean man-

hood and clean womanhood will not be the battle it has been for many of the men who are branded with the word "felon" because they were neglected in their youth and taught the bitter hatred of a distorted theology.

To the man in prison, practical aid that will help him to help himself is far more reacning in effect than the tons of bible tracts with which our prisons are flooded, or the moral sermon delivered at so much per month. To this end, The Pathfinders' Club of America, Detroit, Mich., The Prisoners' Relief Society, Washington, D. C., The Howard Association, Chicago, are, without doubt, the greatest factors in existence today in salvaging human derelicts from the ash can of man's inhumanity to man.

It is the individual effort that counts.

CHAPTER XI
CAPITAL PUNISHMENT

"It is the sentence of this court that you be hanged by the neck until you are dead, and may God have mercy on your soul."

CHAPTER XI
CAPITAL PUNISHMENT

IN THE UNITED STATES, every year, more men are put to death by capital punishment than in all other christian nations combined. England ranks second and France third. Also, the United States, as statistics show, has the highest percentage of homicides of any country in the world. Why?

In the early stages of society the man committing homicide was killed by the "Avenger of Blood" on behalf of the family of the man killed, and not as representing the authority of the State. That was the custom for centuries, until the mischief of this practice was mitigated by the establishment of cities of refuge, and in Pagan and Christian times, of the recognizing of the temples and churches. In the laws of Khamurobi, king of Babylon, the death penalty was imposed for many offenses; the modes of execution especially mentioned are, drowning, burning and impalement.

Draco, the first compiler of the penal code of Greece, made the death penalty for all offenses.

When asked why he did so, he replied: "The least offense deserves death and I can impose no worse for higher crimes."

Under the Mosaic code the law of vengeance was personified in the then prevailing doctrine of "an eye for an eye; a tooth for a tooth," in many instances that rule being carried out literally. In the dark ages of the United Kingdom, under the rule of Saxon and Danish kings, the modes of capital punishment were: "hanging, beheading, drowning, burning, stoning and precipitation from rocks." William, the Conqueror, would not permit the death sentence by hanging, but by mutilation.

Death was the penalty for the most trivial offenses; for example, the cutting of a tree, or poaching a deer. In the year 1800, there were over two hundred capital crimes in Great Britain. Men were hung and quartered for offenses which would now be regarded as misdemeanors, while the learned clergy and statesmen looked on with applause. During the reign of Henry VIII, seventy-two thousand persons were executed.

"At the end of the eighteenth century the criminal laws of all Europe were ferocious and indiscriminate," says the author of *Capital Punishment* in the *Encylopedia Britannica*, "in its administration of capital punishment for almost all

grave crimes yet such forms of crime were far more numerous than they are now." The best blood of England drenched the execution block, and Kech, the legal executioner, became more infamous than Rob Roy, the bandit. Death was the panacea for all ills.

Previous to the late war no legal executions have taken place in Belgium since 1863; in Finland since 1824; in Holland since 1860. No legal executions in Norway since 1876—abolished by law in 1905; abolished in Portugal in 1867; in Roumania in 1864. Even Russia abolished capital punishment except for military offenses, in 1850, but later restored it for a short time, only to abolish it again in 1907. Only seven out of twenty-two Cantons in Switzerland have it, and Italy revoked the law in 1888.

In the United States legal murder has been abolished in Oregon, Tennessee, Kansas, Maine, Michigan, Minnesota, North Dakota, Rhode Island, South Dakota, Wisconsin, Missouri and in Washington, but restored in the last named State at the 1919 term of the legislature. Homicides have decreased in every one of these States to an appreciable extent.

The only light we have to guide our advancing footsteps in enacting progressive legislation is the unerring light of experience. The record shows

that the death penalty has been abolished in Michigan for sixty-nine years; in Rhode Island for sixty-four years; in Wisconsin for sixty-three years; in Maine for forty years, and in Kansas by practice for about fifty years, and recently by statute, and yet these enlightened and progressive States have discovered no good reason for repealing these laws that have been in force for over half a century in most instances. That alone should be enough to convince that the abolition statutes have vindicated their existence.

Besides, is it a mere coincidence that the States that have so long forgone the death penalty have less than one-half the number of homicides of the States that foster executions? Is it only a coincidence that homicides in Connecticut, Massachusetts, Vermont and New Hampshire have increased over previous years, while in their sister State of Maine, where life imprisonment is the highest penalty, the number of homicides have decreased in the same period?

After centuries of observation and experience, the learned judges of England and America established a rule making the preponderance of evidence in civil cases the guide for themselves and juries in deciding questions of disputed facts. That is the only true rule. Then have we not proven our case by an overwhelming preponderance of the

proof? The evidence based on actual experience in our States and in foreign countries is so nearly unanimous in favor of the abolition of capital punishment that it is a mere exception of a general rule that a fact militates against it.

But you ask why should legal murder increase capital crimes?

Because crime is largely a disease, and the demoralizing effect of a legal murder and the example thus set by the State, arouses the criminal natures and cheapens life in the estimate of the criminally inclined. Like begets like in this respect as sure as night follows day. You may declare that it deters others from committing crimes. If that is so, why have States that do not kill, the smallest homicidal rate per capita? Why are such crimes increasing where the death penalty is being enforced?

If it deters to kill by hanging or electrocution, it would act as a much stronger deterrent if you would, as of old, torture and mutilate the murderer. You insist that would be too cruel and barbarous and would demoralize the public and even brutalize men. That is it exactly; that is the very thing legal murder does to humanity now. The majority of people think inflicting the death penalty is too cruel and barbarous, and that they think so is proven by the fact that a great ma-

jority of the people want the condemned man commuted to life imprisonment. Our descendents, a century hence, will look back on our legal executions with the same aversion and horror, and denounce us as we do our ancestors who burned at the stake and mutilated the body of the condemned, or caused it to hang for weeks as a warning.

Some of the most shocking crimes follow the most notorious executions. For example: The Allens murdered Judge Massey and four others in the court house at Hillsville, Va., while the papers of said State were heralding the news of the execution of the notorious wife-murderer, H. C. Beattie. The assassination of Rosenthal in New York city followed closely on the heels of the execution of four men in New York State within one hour. Such lists are exceedingly long, and if you will but notice, there is never a legal murder committed that is not closely followed with a homicide that is atrocious and startling.

Another reason why capital punishment should be abolished is that sometimes innocent men are executed. Mr. B. Paul Newman, writing for the *Fortnightly Review*, says: "Some time ago Sir James McIntosh, a most cool and dispassionate observer, declared that, taking a long period of time, one innocent man was hanged in every three years in the United States."

A few will insist even in this enlightened day that the criminal should be punished measure for measure for his crime. That is the old spirit of blood and vengeance that was supposed to have perished nearly two thousand years ago. That was a failure even under the old Jewish law, under which the penalty for every offense but one was death. Cain, Moses, Lamech, David, Simon, Levi, were all murderers, yet none were deprived of their lives on that account. Under the old law of revenge, the wife who believed in a different God from her husband, forfeited her life, and slavery and polygamy were as much sanctioned by God as the law of murder, and yet in these days no one would say that it was not right to abolish them.

When Christ came and died for his enemies, He impliedly forbade us to kill our enemies. He forgave His murderers, saying: "Father, forgive them for they know not what they do." Father Mathew says: "I have been in the ministry for thirty years and I have never yet discovered that the founder of Christianity has delegated to any man the right to take away the life of his fellow-man."

It is claimed by the advocates of the death penalty that if it is abrogated, it would increase lynching. Here again, statistics come to our aid. In the States that have abolished the death penalty there has not been a lynching in several years,

while in the States that still commit legal murder, lynchings go on unabated.

A learned statesman and criminologist has said: "The death penalty as inflicted by governments is a perpetual excuse for mobs." The greatest danger in a republic is a mob, and as long as States inflict the penalty of death, mobs will follow the example. If the State does not consider life sacred, the mob with ready rope, will strangle the suspected. The mob will say: "The only difference is the trial; we know he is guilty; why should time be wasted in technicalities?" In other words, why may not the mob do quickly what the law does slowly."

The fear of death does not deter homicides. For the past ten years there has been an average of about sixteen hundred homicides and six thousand suicides per year, showing that when desperation takes hold of a man the fear of death does not deter him from taking even his own life. The fear of death did not deter two million of our best men from joining the army in defense of our country.

So much for statistics. From an argumentive viewpoint I can do no better than reproduce an article written by Dr. H. N. Stokes, of Washington, D. C., in which he says:

"There is a superstition, older than history,

that if you do something as bad to your enemy as he has done to you, you have squared things up, have balanced the account and are ready to appear before the throne of Justice with clean hands. In primitive times the doctrine of an eye for an eye and a tooth for a tooth. was recognized as sound religion and was taught from the pulpit on alternate Sabbaths with the statement, "Vengeance is mine, I will repay, saith the Lord." Theoretically we still believe in the latter statement. We think that he who takes the life of another will suffer damnation in hell for it. But we are impatient with the Lord's slowness; we desire to expedite matters, to help Him out by sending the offender to his doom as quickly as it can be decently done. So we hang or otherwise forcibly dispose of him.

This would be highly laudable could we exhibit the badge of a Divine deputy sheriff, but lacking this it is mere meddling with the affairs of the Almighty and raises the question whether we are not collectively as criminal as the fellow whom we do away with. And if we analyze our feelings we are likely to find, underneath, a distorted idea of ourselves as administrators of Eternal Justice, a large residuum of that very feeling of revenge which is without reason, the relic of savage impulse and often differing little from the motive of the murder himself.

"All punishment, whether for capital offense

or not, is nothing but retaliation unless it has for its exclusive purpose one or all of three objects; the protection of society from further acts by the same individual; the reformation of the offender, and discouraging others from committing the same offense. Unless strictly limited to the minimum necessary to effect these results it becomes excessive, extortionate and therefore criminal.

"How far does the death penalty accomplish these aims? If it accomplishes them, is it more effective than milder measures? Even if it is the most efficient means of combating capital offenses, is it justifiable on the basis of principles which must be observed in a civilized community?

"The second consideration may be dismissed at once. The death penalty does not take the offender into consideration at all. It does not ask whether by any possibility he may be turned into a useful citizen. It simply wipes him off the face ot the earth without any regard for the question of his possibly having some rights, bad as he may be.

"Nobody can deny that so far as the particular person is concerned, the mass of bones and flesh known as John Doe or Richard Roe, society is most effectively protected against further misdeeds by hanging, shooting, electrocuting, decapitating or disemboweling him. It is a rough and

ready method. Possibly it may be justified in a community where no other means of restraint are available and in sudden emergencies, just as one dynamites a building to stop the spread of fire. But such questions are hardly worth consideration.

"We are not savages; we have a very efficient means of restraint in our prisons. Getting rid of a dangerous person by death is much the same, no matter for what reason he is dangerous. If we are after saving ourselves trouble, we would be equally justified in killing the man who has the misfortune to develop a case of smallpox, or tuberculosis. There is no question that such a method would be the most efficient possible. The germs of a contagious disease can be disposed of by killing and cremating the victim, but it is an open question whether moral disease can be disposed of the same way.

"There are many of us who are not quite sure that the physical body of John Doe is all there is of him. Many, if not most, believe that the real John Doe cannot be destroyed by death; that all we do is to force him out of his body, to go, we know not whither, and possibly only to acquire greater powers of mischief. This is theory, but it is just as well to consider such a possibility.

"But quite apart from the fact that if we were asked whether we are really protecting our-

selves from John Doe by killing him, we should have to reply that we don't know. Does the death penalty protect society by preventing others from committing similar offenses? Nobody denies that the fear of punishment has a certain restraining influence, but here we meet with a strange but well established fact. Reliable statistics show that murder does not increase when a severe punishment is substituted for the death penalty. Several of our States have abolished capital punishment, some of them years ago, and yet the percentage of capital offenses does not grow, or, at least, does not grow faster than where it is still in force. The same is true of other lands. The most striking feature of crime statistics is this, that the nature of the punishment seems to make but little difference. Many years ago the death penalty was inflicted in England for two hundred different offenses; yet crime was not suppressed. Neither has it increased as capital punishment has been gradually restricted. Why is this?

"Consider the psychology of the matter. Gambling houses are run for the profit of the keeper. No gambling concern could hold out and pay rent if the chances were exactly even. Everybody who patronizes such a resort must know that the odds are against them; that if he keeps on long enough he must lose all he has. Does this

act as a deterrent? By no means. A gambler knows that the odds are against him, but he hopes to be favored by luck; he hopes to escape the inevitable law that he must lose in the end. So on he goes with the game.

"He who commits a premeditated crime is in the same position. He figures that chance will favor him; he lays plans which he trusts will enable him to escape detection; he magnifies these and minimizes the chances against him. By increasing the severity of the penalty we exercise no markedly deterrent influence; we simply cause the prospective offender to sharpen his wits the more —and still take the chance. It is not the severity of the punishment, but its certainty, which counts. In fact, the severity of the penalty imposed by law is a direct stimulant to offense for this reason.

"There is a strong undercurrent of opposition to extreme penalties. Juries sometimes refuse to render a verdict of guilty for just this reason. This renders the certainty of conviction less and therefore gives the prospective offender a better chance to escape. A milder punishment, unfailingly inflicted, but which can be annulled should it appear later that the defendent is innocent, is much more likely to lead to conviction. It is, then, not the severity, but the certainty of punishment, which acts as restraint. No one gambles against the certainty of losing.

"It should be a fundamental principle of all punitive measures that they can be revoked should it appear later that they have been unjustly imposed. That there is a possibility of this goes without saying. Remember that he who commits a premeditated offense, let us say murder, is hardly likely to do it in public, with everybody looking at him. Usually he lays his plan so as to reduce the possibility of detection to a minimum, or what he regards as such. Consequently the evidence available for his conviction is more or less indirect and presumptive, or, to use the common phrase, circumstantial.

"Circumstantial evidence is evidence which consists of a greater or less number of indications or circumstances all of which can be explained on a single assumption, that is, the guilt of the defendant, but each of which, taken alone, could be explained in another way. The fact that they occurred together might be coincidence, but the more of such facts there are, the greater becomes the presumption that they have common cause.

"Circumstantial evidence is not to be despised. It plays an enormous part in all the affairs of life. In fact, it may be said that if we were compelled to act on certainties only, we should practically never act at all. We all know the man who will do nothing unless he is cock-sure; he never gets

anywhere. Even some of our best established scientific theories are based on a variety of observed data, anyone of which could be explained in some other way. It is the theory which forms the connecting link.

"No one has ever seen an atom; our belief in atoms is absolutely the product of circumstantial evidence. When it comes to the still more complex problems of human nature and action, circumstantial evidence plays a still greater part. How many of us understand the motives of others? Yet how readily we judge another, peicing together the few individual facts which we may observe, or worse, the supposed facts which we hear, and thereby evolve a theory of that person's character and motives.

"There is no mathematical process by which we can figure out the probability; we are biased in our judgement by hundreds of prejudices and influences. Just as the prospective criminal distorts a reasonable probability of escaping detection into a certainty. so do we, or the jury, distort a reasonable probability of guilt into a certainty—and conviction follows. That is the way we all act, and provided the decision is not irrevocable it is right. Human action would come to an end, society would disintegrate, the repression of crime would be impossible otherwise. The important point is

that while all other penalties are revocable, the death penalty is not, No amount of evidence, coming too late, can bring a dead man to life and consequently there is always the possibility of a horrible injustice being done.

"To argue against the death penalty inflicted on the basis of circumstantial evidence is not to argue against capital punishment as such. It says that you must not kill unless you are absolutely certain, which at times you may be. If you are absolutely sure, what then? Does the death penalty violate some fundamental law to which there is no exception? If so, what is it?

"Probably the largest and most active association having for its object the abolition of capital punishment is the American League for the Abolition of Legalized Crime. Although somewhat paradoxical the term is an apt one. Can there be such a thing as legalized crime, and if so what is it? I know that there is a lawyer listening to me, so I shall not attempt a legal definition of crime. From his standpoint a crime is undoubtedly anything which the laws define as such. If the law says a thing is permissible, or if it commands it, then from the legal standpoint it is not a crime. Remember, please, that in a democratic community law is nothing but public opinion and sentiment formally expressed through the elected legislative

body, or—and it is well to remember this—the public opinion of our ancestors, which has gained this formal sanctic which has decended to us, it remains on the statute books even if we would not put it there ourselves.

"In a crude way the law represents the opinion of the average on what is just and equitable, but equally it reflects his prejudices, his animosities, his desire for revenge or self gratification. There is nothing, no matter how absurd, unjust, cruel, which cannot be enacted into a law if there are enough men interested in voting for it; there is nothing, no matter how good, which cannot be made a legal crime if enough people find it to interfere with their desires or prejudices. Don't forget that it is not so long ago that the God-fearing people of New England burned lunatics and epileptics under the witchcraft laws and bored holes through the tongues of Quakers and other heretics.

"Morally, anything is a crime which is unjust and cruel, or which conflicts with the basic principles of the rights of the individual. Are there really such fundamental rights? The answer depends on whether you believe in them or whether you are an advocate of the right of the strongest.

"The right to life is God-given and inalienable. If that means anything it means that a man's life

is his own beyond the right of anyone to take it from him on any pretext whatever. Granted that the dangerous individual should not be allowed to run loose, granted that having as much right to my life as has the man who attacks me to his, I may defend myself even to the extent of killing him, this has no application in a community where high walls and strong bars are provided for such emergencies. In going to th point of killing in self-defense, except in an emergency, the community becomes itself the criminal, the murderer. In inflicting punishment beyond the limit of absolute necessity, it is itself breaking a moral law on which all law is theoretically founded, the right of every man to life, liberty and the pursuit of happiness.

"Of course it will be said that the murderer, by his own act, outlaws himself, that he deprives himself of this inalienable right to life, that he tears up his God-given certificate. This is not the place for theological or metaphysical quibbling. That he has lost his right to life does not prove that the community has acquired it, and can dispose of it as it wills. The right of the community is limited to self protection and this, as we have seen, does not require the taking of life.

"And finally, if it be said that the murderer's life must be taken as a warning and example to others. then, I say, you are not only making him

responsible for his own crime but for the prospective crimes of future murderers; you are asking him to suffer for sins not yet committed. The scheme of Justice has a place, I think, for such a vicarious atonement. To kill a man in order to discourage others from committing murder, when you otherwise would admit the punishment to be excessive, is the exact parallel of the German plan of shooting every tenth citizen in order to discourage sniping. To every man according to his deserts, but not one iota more."

As in the dealing with most crime problems, The American Prison System, and the laws sustaining it, again put the cart before the horse in its method of executing men of sound mind while the dangerous lunatic who commits murder, is allowed to live indefinitely at State expense. The argument is that the lunatic is not responsible for his acts hence his immunity from the death trap. Very well.

Now it is a well known fact that thousands of murders have been committed in drunken brawls, and that hundreds of such murderers have paid the extreme penalty, the law refusing to recognize the fact that intoxicating liquor turned the murderer into an entirely irresponsible maniac at the time. In other words the man is hanged for getting drunk.

Temporary insanity has been the successful plea of many a murderer who had the price to fight his way through the courts, but such a plea has invariably been a failure with the poor devil without friends or money.

The dangerous, hopelessly insane person, one who is out to kill without cause or reason, when finally captured is sent to an asylum. He is allowed to live with the certainty always existing, that, if the slightest opportunity presents itself, he will again take human life. On the other hand, if the victim of the law is of sound mind and liable to reformation if given a proper length of time to comprehend the error of his ways, no cognizance is taken of the fact that he might possibly become a useful unit to society; he is executed forthwith.

If capital punishment must be, why not reverse the standard of mankind on whom it is to be practiced? Hang the maniac and preserve the responsible citizen.

Dr. Frank Crane, the noted divine, gives the following reasons why he is opposed to the death penalty:

"1. The law of God, 'Thou shalt not kill,' is applicable to the State, or any organization of men, as well as to individuals.

"2. Courts of justice at their best are not in-

fallible, and none but an infallible tribunal has the right to take life.

"3. Having inflicted the death penalty, it is impossible to correct a mistake. No human tribunal has a right to make a decree that cannot possibly be reversed.

"4. Capital punishment is vengeance, pure and simple. The object of the law should not be retaliation, but justice.

"5. The object of legal penalties are three: To cure the offender, to deter others, and protect society. Capital punishment effects no one of these three. The criminal is not reformed; he is killed. Others are not deterred; facts show that the more brutal the punishment the more crime prevails. And the public is not safe-guarded, because harsh penalties create and solidify the criminal class.

"6. Human courts are not perfect. They make mistakes. Some are condemned who are not guilty; some go free who are guilty. We have no right to inflict a death penalty until our legal processes are surer, and that will never be.

"7. Legal murder is brutalizing in its effect upon the people. Violence breeds violence.

"8. A criminal who is put to death by law is made notorious. Infamy achieves fame. Feeble personalities, with a thirst for notoriety and with weak morals, are stimulated to crime.

"9. It is pure fiction that, if you can get twelve men in a jury box to agree, after being harangued and confused by lawyers, the verdict must be just. It may be the best we can do, but it is not good enough to give grounds for hanging a man.

"10. The way often employed in former times was to settle issues by combat with swords or lances. The 'modern' way amounts to much the same. The prosecuting and defending attorneys battle with their wits. The aim on both sides is not to establish the truth but to win. It is absurd to imagine that justice can be had from such procedure.

"11. The legal conflict is often unfair, depending upon the size of the defendant's purse. All accused persons are not equally well defended.

"12. The object of the death penalty is obviously to put a dangerous person out of the way. Now, if he is proven insane, hopeless, and a permanent menace, we send him to an asylum and let him live. If he is proved responsible, and hence possibly subject to reformation, we kill him. Beautiful logic.

"13. In capital punishment we are destroying a man's life for acts for which we are all in a measure to blame. The criminal may be guilty, but certainly society is also guilty in part, for

almost all criminality is due to environment, hereditary, and unjust social conditions. And if this is not wholly true it is true enough to warrant us withholding our hand raised to murder the accused.

"14. So long as we refuse to educate all the children, so long as we allow defectives to breed unchecked, so long as we permit unlimited wealth and its corollary, widespread poverty, so long as we allow traffic in virtue and make legal the sale of alcohol, so long as we turn politics over to the most unscrupulous and corrupt element among us, we have no right to kill the weak victims of our own neglect.

"15. The object of the law should not be revenge, but to cure, heal and reform the criminal; to prevent conditions that generate crime, and all together not to attack, intimidate, torture and murder the "submerged tenth," but to help them all we can. So doing we best protect ourselves."

For years America has sent her missionaries into the far East to teach the people there. It is interesting to note that recently, from the very parts of the world into which our own missionaries are carrying the gospel of brotherly love, came a bearer of truth who said that we were barbarians when we even think of reviving the law to hang our fellowmen.

The words fell from the lips of Mirza Ahmand Sohrab, a Persian, while visiting in Portland, Oregon, during the 1920 campaign to restore legal murder.

In his heathen country, such christian acts as legally murdering a human being, are not tolerated under any circumstances.

Is it any less a crime for the State to murder a human being than for an individual to commit murder? And always remember that *you* are part of the State.

CHAPTER XII

MAIL PRIVILEGES

The American Prison System seeks to break a man's spirit—break him mentally, morally and physically. Long experience in devilish designs has taught the System that one sure way to wreck the victim is to restrict his mail privileges—take away his divine right to communicate with his loved ones except on rare occasions. Even Nero could not have exceeded this in cruelty.

CHAPTER XII

MAIL PRIVILEGES

THE POWER OF EXPRESSION is one of the most valuable assets a man can possess—it is the basis of success. The ability to express one's thoughts on paper is an accomplishment desired by many but possessed by few. It is an educative feature without an equal, and as a reformative measure in prison it is the utmost pinnacle of the whole foundation. Yet there are only ten penitentiaries in the United States today that allow their unfortunate inmates an opportunity to even try to help themselves along toward mental improvement by granting them unlimited writing privileges.

There are penitentiaries of our great American Prison System that will not allow daily newspapers inside the walls, the inmates living in ignorance of what is transpiring in the world except the meager details gleaned from new arrivals, and that on the sly at odd moments, a little now and a little then, whenever opportunity affords for clandestine con-

versation. One can readily perceive the handicap to a man leaving such an institution after doing a five-year "bit"

There are penitentiaries of our great American Prison System that allow their inmates to receive or write but one letter each month. Just think of it. What can be more devilish or hellish than to deprive a man of the privilege of hearing from his loved ones but once a month?

At one time I was personally acquainted with a Russian boy who was not allowed to receive letters from his mother, (who lived in some remote province of Russia) because none of the officials could read in that language and there were no interpreters convenient. Sounds ridiculous, does it not?

And what sublime ignorance on the part of the commonwealth and the officials representing it, to deprive a man of the privilege of writing to his wife, mother or children whenever he so desires.

It is strange but true, that many men who land in prison are seized with a strong desire to "write." Why it is so, I am unable to say, unless it is because they see so much that is new to them —so much that is entirely foreign to real humanity and common sense—that they are so struck with the monstrosity of man's inhumanity to man that they would like to put their thoughts in black and

white thus assuring themselves of tangible memoranda for fear they might forget parts of it later on. Men who previously dreaded the job of "taking pen in hand" to write an ordinary letter in their former life, complain bitterly of their lack of ability to transcribe their thoughts, and forthwith labor diligently to overcome obstacles that would ordinarily discourage the best of men. That they succeed is evidenced in the very fact that prison reforms of today are largely due to the efforts of self-made thought-expressionists, if we might so call them—men who have conquered in prison in spite of official effort and drastic rules made especially to keep them wallowing in the slough of darkness and ignorance, which, in the last analysis, lays bare the fact that after all, education is the tap-root for the cure of crime, or, at least, the prevention of a major portion of criminal acts, for it is an absolute fact that not one of these self-educated prison literary *genii* ever returns to prison.

While it is true that all prison minds do not turn to literary tastes, yet on the same grounds, it cannot be denied that the privilege and ability to write, even letters, is of great value and benefit to all; then why is this benefit denied?

All mail to and from prisoners is closely examined by prison officials, which is absolutely necessary for obvious reasons, chief of which is to prevent the entrance into the prison of morphine or

other drugs, but aside from such examinations there is no plausible excuse for the present harmful system of restricted mail.

I said that all mail to and from prison is closely examined by prison officials. That is an error to a certain extent, for this reason:

In every prison where restricted mail is the rule, there exists one or more, (usually a dozen) "underground routes" through which mail is delivered and received to and from the outside by prisoners who care to take advantage of such means in communicating with friends and relatives. That the officials are aware of this is certain, for an occasional letter goes wrong and falls into their hands, but it is very seldom they are able to discover the real methods employed. Of course the carrier and the writer of the discovered letter are subjected to severe punishment, which in the end avails little or nothing, as all such punishments do; in fact, because of such punishment, more letters than ever are likely to go out, as a challenge to further discovery.

Personally, I have known the time in the Oregon penitentiary, some years ago, when more letters were sent over the "grapevine route" than through the front office, and that the same methods exist in all restricted mail prisons is evidenced by the fact that I have received mail from prisoners

in other penitentiaries, when it was strictly against the rules of both prisons for an inmate to correspond with another, either in or out of prison. The underground route cannot be absolutely suppressed in any prison.

So you will observe that the rule is pernicious in more ways than one. It deprives the prisoner of intercourse with his loved ones, forcing him to use methods that are harmful to the prison administration, and a detriment to good discipline.

The argument occurs that the underground route would be used even if mail privileges were unrestricted. Possibly so, but to a very small extent. I know it to be a fact that where prisoners are allowed to write whenever they so desire, they refuse to take a chance on punishment and a black mark against their otherwise clean prison record. There is no reason to do so.

Ex-Governor Hunt, of Arizona, says:

"Although nearly every penal institution in the United States has in the past, or at least until recently, exercised regulations greatly restricting prisoner's mail, it is difficult to conceive of any just or practicable reason for limiting the prisoners to writing or receiving of only one or two letters a month. To a man confined within prison walls, a free and unlimited correspondence with friends and relatives on the outside should prove a very

important factor for his benefit and betterment. To imprison a man within stone walls and then deliberately proceed to further isolate him from human kind by prohibiting the mailing or receiving of letters except at long intervals, will assuredly not assist him to recover his moral perspective and regain a useful place in society. On the other hand, the keeping alive of his sympathies and feelings of kinship with the rest of humanity through the medium of correspondence, should accomplish a great deal towards his rehabilitation. I confidently look forward to the day when prisoners' correspondence will be free from any numerical restrictions."

Arizona has long been in the list of "unrestricted mail privileges" for her prisoners, and there is less trouble inside the walls of that prison than any other prison in the United States. Mississippi State prisoners also have unlimited mail privileges, and while Mr. J. G. Gathings was superintendent of the Mississippi penitentiary, he made the following remarks:

"I could never see the sense of cutting a prisoner off from communication with the outside world, and believe that such a course long continued tends to besodden the already resentful mind of the unfortunate man who has trespassed the law so that, for a time, he is taken from the walks of

life, and you return him later a meaner creature. I approve of my prisoners reading the daily papers whenever they can and believe that they are never hurt by keeping up with the events and happenings of the world, but, on the contrary, their minds are brightened with current literature, and I encourage social intercourse among them."

The late Elbert Hubbard, sociologist, humanitarian and thinker, published the following in his magazine:

"When a man is sent to prison, there is no reason why his friends, relatives and family should be punished by not being allowed to hear from him. That is where the wrong individual is penalized.

"Why shouldn't a prisoner be allowed to write to his folks, telling whether he is alive or dead, well or sick, miserable or fairly well content? Who suffers? You know it is the folks at home. It is a great privilege to write letters, and it is a still greater privilege to receive them. Any one who has ever felt the abject misery of looking for a letter that never comes will understand me.

"There is no reason under the blue sky why a convict should not be allowed to send out as many letters of a social nature as he cares to buy postage stamps for. And so I say that every prisoner in every prison in America should be allowed the full,

free privilege of the United States mail, under exactly the same conditions that men outside enjoy. The mail service is a privilege and should not be abused, that is all.

"There is nothing in any law in the land that says that imprisoned men shall be denied the mail privileges. The forbidding prisoners to send out mail is a foolish, vain, unnecessary rule that has come down to us from the dark ages."

Mrs. Ella Dann Moore, of the Department of Agriculture, of Washington, D. C., recognized "Mother of the Movement," and who has worked incessantly for years in her efforts to remove mail restrictions from prisoners, in a letter to former Governor Brumbaugh of Pennsylvania, said:

"Where the experiment of unrestricted mail has been tried, it has been an unprecedented success. Discipline has improved, friction reduced, studious habits formed, and in every respect it has been advantageous. The more connections the prisoner can make with the outside world, of a proper kind, the greater his chances are for rehabilitation. Instances are numerous where correspondence has opened the way to business opportunities which otherwise would have been impossible."

And from George Horace Lorimer, Editor of the *Saturday Evening Post*, we have this:

"What good reason is there for any restriction of a prisoner's mail, except to see that drugs, weapons and the like are not delivered to them? Restriction is the rule, however, rather than the exception. In most States a prisoner may write but one letter a month or fortnight, or possibly one a week. In a prisoner's situation what influence is likely to be more humanizing than letters? These restrictions belong to the era—only now beginning to pass away—when the object of prison discipline was frankly to crush and dehumanize."

In a lengthy article under the caption of *Gagging Prisoners*, Dr. R. N. Stokes says:

".....But whatever reasons, sane or silly, may exist for not allowing the prisoner to write more than one letter a month, there are several very good ones for letting him write whenever he wishes. In the first place, letter writing in itself is a kind of an education. It teaches the man to think. You know how much better you can formulate your thoughts when you make the attempt to write them down. Letter writing implies a certain demand on the intelligence and therefore it helps to keep the mental machinery from getting rusty. It is a sort of creative work which no amount of reading can replace. To allow letter writing means to counteract the deadening influence of prison life. It opens up channels through which

all sorts of good influences may flow in and be responded to. Believing as we do and as no reasonable person can deny, that it is in the interests of the State to discharge its prisoners with all their faculties in good working order, so that they may take care of themselves in an honest and reasonable fashion, any rule which tends to dwarf the power of expression is as unjustifiable as would be a form of physical maiming.

"One would think that in view of these facts some progress would be made towards abolishing such a needless and pernicious rule. Probably the reason it is not done is that it seems too small a matter to bother about. It may be that there are bigger problems in prison reform, but I doubt whether anything can be more important than that which concerns the mental training of prisoners and their preparation for meeting the problems of life. It has been said that no man can be fitted for liberty except through the practice of liberty.

"It is not the prisoner alone who demands a just right; it is the demand of thinking men and women, the most useful units of society—who know that society must again deal with the man behind the walls when the time comes for his release, and they fully realize that the better fitted he is to take care of himself, the less trouble so-

ciety will have with him in the future. Society is not asked to decide this question merely from considerations of pity and humanitarianism, though both have a place in its discussion. The demand for free trade in prison literature is based also on our newer convictions of social justice and on the golden truth that the "greatest enterprise in the world, for splendor, for extent, is the upbuilding of man."

Mr. B. Ogden Chisolm, a retired banker of New York City, who for twenty years has studied the prison problem from the outside, says:

"The subject of letter writing is one of great importance to the prisoner. This privilege, when properly distributed, provides opportunities to build character, to educate the man, and to create in him a considerable degree of happiness. Recently there came to my office a letter from a Southern city, bearing the name and address of a woman, and upon opening it I found it was from a male prisoner, who had been forbidden to write more than one letter a month, and that only to a relative. This man was compelled to smuggle any other letter to his aunt, who had visited him in the prison, and thus I received mine. I answered it shortly afterward, following his explicit directions not to address him at the prison, as he would not be permitted to receive it, and although many months have gone by, I have heard nothing from this poor fellow.

"There is no simpler and fairer method of bringing happiness to thousands of prisoners than that of permitting them to receive letters from home and friends. Likewise, there is no greater cause for genuine concern on the part of those at home when the customary letter does not arrive. Mothers and sisters gather together and wonder what has happened. When a prisoner's cell-door is chalked for some petty offense, six months' letter writing privileges are taken from him, although discipline for such an offense could readily be administered without making those at home suffer along with the prisoner.

"Many a wife or mother at a distance has worried and wondered when the regular letter from husband or son did not come in the mail, and frequently because a prison guard, in a spirit of petty spite, cruelly put an undeserved chalk mark on the man's door. Unreasonable restrictions continue to be placed upon this privilege in most prisons, in order chiefly, it would seem, to humiliate the man by subjecting him to orders from some higher authority."

Remember that whatever benefits the prisoner in the way of educating him, is also a benefit to society, and to that end each and every individual should appoint him or herself, as a committee of one to send an appeal to your legislative bodies in

every State, urging that laws be enacted whereby the prisoner will be allowed to rehabilitate himself if he so desires, and believe me, when I tell you that such is the desire of most of us, and that many of us are too ignorant to know how to go about it.

The wife at home with the kiddies, fighting against an overwhelming handicap to keep the wolf from the door and the family together, knowing nothing of the devilish mail restrictions wonders why she does not hear from her husband, and finally lays it to lack of love and interest on his part, to which is often added a letter of smooth insinuations from a prison official who glories in breaking up a home. Unless the wife is in a position to find out the truth for herself, she will soon cease communication with her prisoner-husband, and it is only a short time before the divorce courts add one more separation to its over-long list, and the System adds one more victim to an inevitable life of crime.

The State penitentiaries of Arizona, Alabama, Louisiana, Mississippi, Rhode Island, Florida, Nevada, Tennessee, have unlimited mail privileges, an innovation that has proved of great benefit to prisoners and officials alike, for prisoners are better contented and give less trouble than in prisons where one letter every two months is all that a prisoner may write or receive.

A majority of prisons allow the inmates to write one letter a week and in a few penitentiaries the inmate may receive as many as are written to him.

Newspapers and magazines are allowed in a few prisons, but the majority cut off papers from the home State. Can you conceive of any good reason why this educational feature should be denied criminals on whose reformation society depends for safety.

CHAPTER XIII
SEMI-STATISTICAL

To the one who does not know the facts relating to the outlay incurred by the numerous branches of the System, the final estimate based on infallible statistics will prove appalling.

CHAPTER XIII
SEMI-STATISTICAL



TATISTICS SHOW that over half a million people are sent to the penitentiaries of the United States every year, and it is estimated that over 150,000 are constantly in durance vile. When it is considered that in the forty-eight States there are more than one hundred penitentiaries and reformatories, the estimate seems conservative enough. Bear in mind that reformatories are not to be confounded with reform schools. Reformatories are penitentiaries in every sense of the word, where first-timers are supposed to be sent, but such usage has been abused to such an extent that hardened criminals are to be found in reformatories, with little or no distinction between them and the "big house." Reform schools are for children too young to be sent to the penitentiary.

Just how many are arrested and sent to jails, rockpiles, workhouses, etc., there are no statistics to show, but judging from the records of any one city police court, the totals will not fall short of a million each year.

The cost of crime in the United States has been variously estimated by writers and statisticians, in figures ranging from two and a half to six billion dollars annually. In either case the price is stupendous, and when insane asylums, institutions for feeble-minded, and alms houses are taken into consideration, although it is true that they are not altogether filled with the criminal class, yet to a large extent are results of criminal operations, one may be inclined to believe that the latter figure is not excessive.

Mr. H. S. Riddle, a member of the Board of Institutional Administration of Ohio, says that the institutions under the control of the Board are of two classes: penal and corrective, and benevolent; in all there are twenty-two of these institutions having a total population of approximately 24,000.

These figures do not include the city, town and county jails, rockpiles and workhouses, which would probably bring the total close to 30,000 constantly confined in the State of Ohio alone.

Ohio is not the largest State in the Union, neither is it the smallest; nor is Ohio beneath the average standard morally.

Naturally the more congested States have a greater criminal population, New York State having within its penal walls alone, penitentiaries, jails, etc., an average population of 20,000, to say

nothing of those confined within its benevolent institutions, which would probably double the Ohio figures quoted above. Benevolent institutions, such as insane asylums, feeble-minded institutions, training schools, etc., must be calculated in the criminal figures, for they are the ravelings from the tangled skein of criminal acts of the past.

So, combining the population of the so-called benevolent institutions with the penitentiaries and other penal colonies, the tax-payers of the country constantly support approximately one million people, who bring in very little if any, moral, mental or monetary return for their support.

To begin with, every county of every State in the Union has its sheriff with one to one hundred deputies, according to population and demands of business. As there are approximately 3,000 counties in the forty-eight States, the army of men from the sheriffs' office alone draws salary running into the millions. Then again, every precinct in each county, except those in the remote wilderness, has at least one constable, who in most cases, draws pay according to services performed, and as these services are not always in the nature of criminal business, it is impossible to correctly estimate the amount they contribute directly to the immense totals, but at least, it is no small amount.

Next in line are the villages and small towns

with from one to a dozen marshals or police officers, all drawing regular salary. From these we pass to the metropolitan police officers, detectives and constables, which cost a huge sum to every city. All this army is employed and paid solely for the purpose of controlling violators of the law, with the exception of the sheriff's force, whose duties besides capture of the criminal, includes the service of civil papers and the administration of a certain amount of civil business.

If these alone were the extent of the cost of crime, we might well conform to the first figure of two and a half billion dollars and remain within a safe limit, but as they are merely the initial figure of the grand total, we are more inclined to rate the price at least double the lowest estimate above given.

For instance; the army of judges, prosecutors and clerks whose salaries are usually counted as far above the ordinary policeman, together with the court bailiffs, juries and witnesses, all swelling to an immense total. And then, there is the occasional initial cost of jails and penitentiaries, together with their regular upkeep, and the pay of an army of officials. Reform schools, (which do everything but reform) workhouses, rockpiles, prison farms and a certain percent of the cost of insane asylums and eleemosynary institutions, are all to be charged up to the cost of crime, and when

it is taken into consideration that every State has a number of all these institutions, the total grows to staggering proportions.

Aside from the foregoing visible and direct costs of crime, there are numerous charges on the same side of the ledger which are not always apparent at first glance. The breaking up of homes and the millions of dollars paid to lawyers for both prosecution and defense, are costs not itemized on the public bills, but they add up in the grand total just the same, so taking all in all, one is led, perforce, to believe that six billion dollars annually is not too high an estimate to place on the cost of crime in the United States.

And to what avail? Crime is not decreased by any means, and for all we can see, the only benefit derived from this enormous annual expenditure is to furnish employment to a huge army of non-producers who follow their calling, not from a sense of righteousness, and justice, but merely for the dollars and the domineering opportunities offered over their fellowman.

Crime will never decrease until the whole present chaotic System is changed to plain common business sense. One great drive wheel in the manufacture of criminals has been broken and results are plainly evident in every State effected by the prohibition law. When the next generation is

ready to take charge of public affairs, it will not be the whiskey-soaked brains of immoral degenerates on whom the nation will depend for humane reforms, but rather on clear heads who have a conscience and a soul, able to see and distinguish between right and wrong, and able to conduct public affairs on sound business principles rather than graft.

Of the 150,000 inmates of penitentiaries and reformatories, (not reform schools) sixteen per-cent are doing life sentences, counting all those with sentences of fifty years and up. Every penitentiary has its quota of inmates doing fifty, sixty, seventy-five and ninety-nine years which are really life sentences.

The total number of legal murders in all States will average about one hundred per year.

The largest number of prisoners received in all penitentiaries are between the ages of seventeen and twenty-five years and there are more sentences of two years than of any other, just enough time for the youngster to become well acquainted with a great variety of old-timers who quickly educate him in all the latest wrinkles of the game. Segregation is impossible under the present System.

One of the peculiarities of prison populations is the fact that each prison carries a long list of inmates whose nativity was foreign or who hails

from other States, and while the home-state product may be in the majority, a large percentage of that same home product are committed for crimes against nature. In other words the yegg, gunman and confidence man are migratory birds, while the petty larceny thief and sexual pervert are more of a residential nature. This will be found true in all but five of the most densely populated States.

The moral degenerate cannot be reformed, no matter how long he may be sentenced to prison. In cases of absolute guilt, beyond the shadow of a doubt, he might better be castrated and sent upon his way absolutely cured, than to be kept at public expense for a long period of years.

Another peculiarity lies in the fact that the average time a convict's wife will cleave to him after his incarceration, is less than three years. After that it becomes an old story—she tires of the struggle for existence, seeks divorce and a free husband. The convict's children will stick with him to the end or quit him early in the game, according to his previous treatment and the amount of respect he has been able to instil in their minds. But his mother, and usually his sisters, will never desert him, no matter the length of time or what happens. Such desertions are exceedingly rare.

CHAPTER XIV

L'ENVOI

With bars they blur the gracious moon,
And blind the goodly sun;
And they do well to hide their hell,
For in it things are done
That Son of God nor son of man
Ever should look upon.

"Ballad of Reading Gaol."

CHAPTER XIV

L'ENVOI

STATISTICS CLAIM that crime is on the increase throughout the world and especially in the United States. As punishments have not decreased to any appreciable extent it would seem that our System of dealing with the offender is lacking and serves neither the ends of justice nor the cure or prevention of crime. The question then arising is this; is our present penal System wrong? It decidedly is.

It is not only the penal system that is wrong, but also the method of securing evidence and convictions as has been exposed in the foregoing chapters.

In a certain city court a young girl was arraigned on a charge of prostitution, the arrest being made by two detectives who sent a stool-pigeon to the suspected house with instructions to secure evidence that would convict. The "stool" entered the house, was served by the girl in question, and he paid her with a marked bill. The detectives forcibly entered the house and arrested the girl

who had the marked bill on her person. The next morning she was taken before the court for trial. During the course of examination the "stool" told how the detectives had sent him to the house and what he had accomplished. He was let go free, while the girl was fined, and so the dignity of the law was upheld, but during the process of handing out justice, (?) at least two criminals were instantly made—the "stool" and the girl, and whoever happened to hear of the story afterwards could not help but turn up their nose at such high-handed injustice, naturally holding the law in contempt.

Judge McGinn, of Portland, Oregon, upon, his retirement from the bench of the Superior court where he had held for six years, said:

"I don't want to say what I think of the bench. In the first place it couldn't be printed, and in the second place, I am going to have to practice before the bench when I am out of this. But I will say that I am mighty glad to get out of it.

"If you send a man to jail a thief, you bring him out a highwayman, or a murderer. The law demands punishment but the theory of punishment is all wrong; I don't believe in punishing criminals. It has been tried for six thousand years and it hasn't done any good. Punishment is a detriment. No, sir; the man who commits a crime

will do it. He doesn't fear the penalty, regardless of what it might be; he hopes to beat it."

It might not be remiss to say that Judge McGinn was noted as a judge of issues rather than laws; he thought more of a letter of thanks from a mother whose boy he had kept out of jail than he did of a leather bound code. Another striking feature of his career was the fact that men who were indebted to Judge McGinn for their freedom did not often backslide; a pledge to Judge McGinn meant something. His contempt for court technicalities was outspoken and woe betide the lawyer who tried to introduce crooked evidence, no matter what the case might be. Unfortunately, there are exceedingly few men of his caliber occupying positions on the bench. If the majority of jurists were like him, crime and penitentiaries would be an altogether different story.

Men like Judge Lindsey and Judge McGinn fully realize the evil in sending young men and boys—mere children—to the penitentiary. They fully realize that the child problem is the correct solution to the crime problem and that as a child is moulded while yet a child, so will he be when he is fully developed into manhood. It is no uncommon thing in a prison mess hall to see on one side of the table an old man well along toward his alloted three-score and ten, or perhaps beyond that

limit, while directly opposite sits a lad of sixteen, perhaps less, whose bright young face looks sadly out of place in surroundings which shed so great an infiuence for evil. Even the old-timer acknowledges a shock to what little moral sense hehas, but the shock is not great enough to prevent him from making a moral degenerate of the kiddie.

The theory that the more severe the punishments the less the number of offenses, is founded upon that belief in juvenile education which preaches, "spare the rod and spoil the child." It is true that punishment sometimes works out when judiciously used. But it is also true that punishment is usually given by the parent or teacher while in a fit of anger, when all sense of judgment is lost, and in which case the parent is more to blame than the child.

How often we hear of the runaway boy or girl. Runaway from what? Home and undue restraint with unjust punishments; home, a place of strict orthodox confinement, with never an outlet for boyish exuberance and fullness of life; home, a place of scoldings, whippings and continual nagging, with youthful pleasures strictly forbidden.

It is very seldom we hear of a child running away from a home of kindness and love. In such homes children are taught by example and precept and love, until instinctively they learn the

difference between right and wrong, and learn to obey without undue punishment.

With very few exceptions, the boy that is sent to prison is naught but an irresponsible piece of humanity, filled with an over-abundance of life and youthful spirit that has found outlet in the wrong direction—a spirit that might easily be moulded into strong character if handled with the same care that is accorded a young thoroughbred dumb brute. But no; he must be dragged into an existence of shame and sorrow and degradation without hardly knowing why, and the law, in taking its pound of flesh, is not restrained, like Shylock, from taking double measure and draining the heart's blood in payment of an unjust bond.

The psychology of crime is a factor which cannot be denied by any sane person, and the heredity of crime is a proven theory, but after all is said and done the fact remains that proper education of the child from earliest infancy, will accomplish more for the suppression of crime than all *isms* and *ologies* put together. Of course there are exceptions to all rules, and there are cases where refined, well-educated men and women finally land in prison. But who can say that such are not the victims of some hereditary taint perhaps dating back for two or more generations, but a taint just the same.

When I say that criminal heredity is a proven theory, do not for a moment construe that as meaning that all children of criminals inherit the evil of their parents. They do not, by any manner of means—in fact, but a small percent inherit such traits, for many a man has become a criminal in the eyes of the law many years after his children have reached maturity, while on the other hand, children of well-known characters of the underworld are often raised in the best of schools, and, unaware of the calling or occupation of their parents, located in some distant city, grow up to be the best of citizens. We of the underworld know of many such cases, but we do not know of a single one of those brought up in the above manner, who has later turned out to be a criminal, a fact which speaks for itself in regards to early training.

One theme seems endless and with reference to which the last word is never spoken. It is at all times of interest to students of social betterment. "Prison Reform" is a term that has magic charm for those who incline to reach out after the fallen and disheartened. Fighting vice in all forms has been the pastime of myriads of well-meaning souls who have accomplished much in the main, but who have overlooked their greatest weapon—the development of virtue. But society is at last beginning to strike out after the truth, adopting new social

theories, condemning dogmas and abandoning the fallacies of the past. The abrupt intellectual development of the human race has placed everything on a higher plane of action, hence progress will be more rapid. Resistance to progress is weakening—it is in its last stronghold—the prisons.

Now there is a reason why the prisons are the final retreat of the reactionaries. These people are like an ancient hulk that has been subjected to all sorts of insults; likewise they are where they can insult and batter, and with unkind words, seek to perpetuate the haunting fear that governs the ignorant inmates of most prisons. A gaunt skeleton stalking down through the night could not more truly exemplify the dreary past than this class of men personifies. The theology of Dark Ages taught many curious things, most of which have been exposed by increase in human knowledge. It taught a heaven of clouds and a hell of sulphur and ice floes. But it has taken a shorter period to rid the world of a belief in a devil with hoofs and horns, than to rid the spirit of revenge in inhumanity.

Prison reform is an integral part of the general movement toward the betterment of the human race and more especially those unfortunate ones who are and will continue to be a part of the dependent classes. A large number of the inmates

of prisons are effected in one way or another by the sins of their parents—heredity—and they are in prison, not altogether for what they have done, but in a certain sense for what others have done before them. It is a distinguished characteristic of sin that it finds its way to the last haunt of virtue and fights its battles there. Those without conscience and training fall an easy prey to the monster, and at times the one who has had training and has seen the battle fought, and mayhap assisted others to win, falls a prey to the insidious influence of the promissory note feature of the chances in American life.

Much has been said and written about the new penology which is gradually replacing the old. The new penology treats crime as a disease (which it surely is) and not a wickedness to be punished; and it employs punishment directly as a cure of the patient—indirectly as cure of the class to which he belongs. This may be an inadequate definition of the new penology, but it is a growing public sentiment and that is what counts when the balance is struck. The worst feature is that so very few penal institutions employ any part of the new penology. The exposure in March, 1919, of the horrible conditions existing on the prison farms of Texas and the more recent brutality exposed in Joliet and the Great Eastern Prison of Philadel-

phia, are but samples of conditions existing in a more or less virulent form in most prisons of America today.

There is one thing mighty certain; water never rises above its level. Neither will inmates of penal institutions rise above their surroundings and social environments. There are but very few prisoners who will not admit the necessity of penal institutions and in their most confidential moments will gracefully acknowledge the deserts of their individual sentences, but to the most ignorant it is plainly written that when they leave prison they will be left floundering in the quagmire with no prospect of future ascendancy.

They lived a hard life before conviction of crime, and a harder life after entering prison, and as they have been taught nothing different, they will continue in a life of crime. Bear this in mind as an absolute fact, that when a man goes straight after leaving prison it is not because he has reformed in prison, neither is it because of fear of prison; it is because he has it in him to change his ways of his own accord; it is because he is able to survive the rottenness of the System, and in spite of it, become a useful unit of society.

The prison is the tragedy of modern society. If there were no prisons in existence today, the enlightened public would hesitate to establish or

re-establish this relic of a barbaric race which held captive their political prisoners in dungeons and cells. It is an unnatural and wholly unscientific method of treatment of the derelicts which are constantly being created, yet we have nothing to take the place of prisons—for the momentary protection of society they must exist until society out of sheer desperation, finds something more sane and reasonable.

At the present time some of the States have fairly satisfactory penitentiaries, reformatories and insane asylums. The steady increase of crime and insanity is demanding the most serious consideration of the whole problem connected with social dereliction—especially the separation of those who are capable of restoration. A thoroughly regenerated State might even consider, with good prospect of success, means of preventing crime and insanity. They are relative problems.

More is expected of prisons than they can possibly fulfill. They are expected to take the hereditary criminal, the physical, mental and moral derelict, the ignorant and the unlearned, and hand these unfortunates back, in a given period, free from the hereditary taint, from the influences of a neglected childhood, the passion and the appetite, the misfortune of poverty and wretchedness—

healthy and useful men, in love with the law and passionately fond of industrial pursuits. Of course it has failed to do anything of the kind and the world attests its belief in the failure by refusing to trust the ex-convict.

Every prison is a school for crime. The most complete system of compulsory education in force today is the prison school for crime. The world of science and investigation knows these things are true and they elect to be content with that knowledge and the supply increases much faster than the ratio of the increase of national population.

Genuine reform is of slow growth. That truth applies in the question under discussion. The dungeon and the rack are a close second to the teaching that revenge is the only method known to bring a man to his senses and induce him to think as his rulers desire him to. Accordingly the dungeon and cell has been an integral part of the christian civilization that has been built on the foundation that God was mad at everybody and occasionally came along with a big stick and mauled his subjects into subjection. Men have not been taught that God is a great spirit which is life itself, full of love and tenderness, and that the song of the lark and the musical symphony are tunes that rise from the great harp of nature making a melody that penetrates even prison walls.

Where, then, must the reform of the young man commence? When the judge sentences the youth to penal servitude he may, with the solemnity of a Monte Cristo, count one, for revenge was the motive that prompted sentence. Send the boy here that you have failed to educate and control and when he is safely immured behind the prison wall, go home and pray for his soul that you have already cast into hell. Add hypocrisy to sin, for the boy who enters the penitentiary is forever lost unless the kind spirit of God gives him a chance hereafter. That may not be orthodox, but it is damnably true.

There is a picture gallery here. It is memory's picture gallery. No artist with brush and pallette can paint with magic touch the pictures that are painted on the memory of these young men. They are never forgotten and the mad witch of unholy memory with skinny finger, will never cease to point at the horrible things they have heard and seen. The Devil of Dante and Milton sits with his burning finger pointed at them and souls are daily added to the army of the lost. A subtle disease has begun to eat into the real substance of character and a horrible repugnance to right and virtue takes possession of him, and the psychonosology process is complete. While as a medium of reformation, the prison is the failure of the age, it may have a useful place in the scheme

of things, but all genuine reformation must begin long before the prison is reached.

Nearly thirty-five years ago the first probation laws were enacted. They are now on the statute books of half of the States. This law puts the subject up as being a social problem; it makes the law a friend rather than an avenger. Wherever this law has been administered it has been potent in reducing crime. Only ten percent are given the benefit of this law when fifty percent could be benefited by it. Parole laws have been successful from their inception, more especially so where the paroled man is backed by a friend who will stand by him until he can stand alone. Prison statistics show that seventy percent of paroled prisoners make good out of prisons where the parole is used indiscriminately, and as high as ninety-seven percent out of prisons where the men are handpicked. It is a specie of reformation which gives the ex-prisoner an incentive to make something out of himself after he has emerged from the depths. But it does not compare with the reform that reaches him before he falls—the reformation which begins at home in early childhood.

There is a certain class of criminals who will never change, no matter what treatment is given them, regardless of friends, parole laws or aid in any shape. They are morally insane, and mentally and physically degenerated, steeled against law

and order in all forms. For such as these there is no hope; they should be an eliminated factor in the scheme of things to the extent of placing them in some institution where they will be treated humanely and in time become extinct. They compose about ten percent of our prison populations and are easily distinguished from the rest upon short acquaintance, as their attempt at general conversation loudly proclaims the ravings of a diseased mind. Fear and passion are the only emotions to which they are susceptible, and worst of all, the whole prison population is judged by the outsider from these weakest links in the chain. Segregation is one of the crying needs of prison reform.

It is hard, it is almost impossihle, for advocates of a change of custom or government to get out from under a charge which has worn down to a platitude. The average man refuses to think when he can get his thinking done for him. For instance, those who believe that prisons and punishments are wrong, are generally classed with the sentimental perverts who pet criminals, with the women who carry boquets to murderers, weep over the sad lot of burglars that have been justly laid by the heels, and want to feed them pie.

But those who know and are interested in the betterment of society in general, are not opposed to the present Prison System because of pity for

the jail bird. Rather, their position is this: that the facts in the case prove beyond any reasonable doubt that the theory of punishment is impotent for good and fruitful of evil.

The criminal is punished for these reasons—to protect the community against him; to teach him a lesson, to change and make him an honest man; and also to give an example to other evil-doers, and by fear, to dissuade them from crime. Another reason might also be added, which is really the greatest—the spirit of revenge. However, only one of all the foregoing reasons is a success—the first one. The rest are mere make-believes, as sending a man to the penitentiary does not result in lasting benefits.

As a rule, which any prison keeper will verify, the convict who has served his time comes back to society a worse criminal than when he went to prison. From being an ordinary man who committed a crime by impulse, he has become a member of the hardened criminal class and is a greater menace to the commonwealth than before.

As a rule, instead of prison changing him to an honest man, it makes him a more vicious man. It generally destroys the little good character he had.

And, as a rule, instead of his punishment deterring others, it psychologically develops more criminals.

Why, therefore keep up a system that has proved by experience and reason to work precisely contrary to what we expected it to?

It has been advocated, and with good sense, too, that all convicted persons should be turned over to a commission charged with full responsibility for their care and custody, under an indeterminate sentence, with authority to release them at such time and on such terms as would guarantee their future harmlessness to society. In other words we should treat criminals as sick men rather than bad men. The idea is exactly all right; but who is to judge of the cure and release? The incurable insane person who commits murder, should be put out of commission for good, while the rational man who commits murder under great stress of circumstances, should be given an opportunity for reconstruction, but who is to draw the line, and just exactly where?

Such responsibility would require men of absolute integrity and keen insight as to human nature. Such a commission could not rely on a prisoner's outward religious tendencies for the reason that religion and prisons do not mix successfully, and profession of religion in prison is usually an assault and battery case upon the front gate. In ten years' prison experience I know of only one convict whom I believed sincere in his religious be-

lief and practice. Then again there are hundreds and hundreds of men in prison (as there are outside) who do not profess religion but who are sound at heart and good citizens to boot, and for that reason a prisoner's religious or non-religious tendencies could not be counted as a criterion to his future actions.

Neither can good conduct on the part of the prisoner, while confined, be taken as a sure sign of his future behavior. It is no trick at all for thoroughly bad men on the outside to get along with little or no trouble while in prison.

In the last analysis, the parole would be the only sure method of securing safety to the commonwealth, and even that method would allow opportunity for any so-minded, to beat the prison. The human mind is queerly constructed and no one can absolutely say what another will do at a given time, and even though a commission, such as has been proposed, should make mistakes occasionally, yet such a method would, by far, excel the present system of confining men for a period of time and then turning them loose worse than ever, in that the degenerate would not be released while men of character and ability were detained.

The American Prison System is punitive in every sense of the word—reformative in none; naturally it is a failure. The hellish devices practiced in American prisons for four hundred years

have made more criminals than were ever born with criminal tendencies in the same length of time—ten to one. The System would make a criminal out of a saint.

Many a man who commits a crime has, immediately previous to his act of lawlessness, lived an abnormal life. Dating from the first moment that he enters a penitentiary, he is forced to continue an unnatural life. His every act is regulated by a devilish system of so-called discipline which is unnatural to the extreme. He is not allowed to eat, sleep, walk, work or speak naturally. His every move is directly against the laws of nature. His every desire or appeal for self-betterment is crushed —he is not allowed to correspond with his family or friends except at long intervals—his spirit is broken, even if it breaks him bodily to do it.

The System sets up a list of rules that are largely retroactive, solely for the opportunity of punishing violations which occur daily for the reason that it is beyond the ken of human possibility to strictly comply with all of them. A majority of guards and many prison officials believe discipline should at all times be maintained with a pick-handle, and to that end flogging, hosing and other equally brutal methods are employed in many prisons.

It has been estimated that forty percent of

prison inmates become recidivists, an estimate that is way too high, but why recidivists at all? Does the American Prison System teach any other mode of life? In what respect is the System reformative? Strange to relate, whenever reformative measures are introduced by some intelligent official, reactionaries, through the press, harp about the "coddled convict." Whenever an effort is made to redeem from the scrap heap a few broken derelicts, as has been tried occasionally, public sentiment has turned against it so that the few changes wrought have been brought about quietly and very slowly.

Thomas Mott Osborne, of Sing Sing, was the first warden on record who dared slash the old System to ribbons without fear of politics and public censure. Of course the machine of American politics finally succeeded in his overthrow, but not before he had planted the seeds of real prison reform too deep too be up-rooted by peanut politicians. The prisoner, not the salary, was the paramount issue with Mr. Osborne—he was in a position financially, to act independently, wherein he had the advantage over other keepers. Other wardens of humane turn of mind must "coddle" their criminals quietly, or expect a rain of criticism from the public, in place of the shoulder to shoulder support to which they are entitled in their efforts to make men instead of wrecks.

'Tis said that man is an optimist by volition

and a pessimist by compulsion. It takes more disappointments to make a pessimist than it takes kindnesses to convert him into an optimist. Hence, repentence born in prison is a spurious child. Reformation in prison has never been accomplished with torture. Hate begets hate. Occasionally love begets love. The results of the American Prison System in the past tells its own tale—there is nothing gained by hate.

For the protection of society there is nothing to take the place of prison just yet. There is a criminal class, penologists to the contrary. It is the only correct deduction ever made by Lombroso. When a man continuously falls into prison, time after time, there is no other class in which to place him, but the "criminal class," and for such as these the prison must exist. While the cure of this class is doubtful, yet there are too many proofs of reclaimed "scrap" to put them all beyond the pale of civilized help.

I have previously stated that the boy problem is the keynote of the crime problem, which is true to a certain extent, but it must not be inferred that it is the absolute cure of crime. There is no positive cure for crime; revolutionize methods, society and laws, as you will, crime will always be prevalent until the meanness inherent in the heart of man since the days of Adam, has disappeared, which will never be.

Apparently good boys sometimes grow up into mighty mean men, and though they may not commit crime themselves, their very meanness and actions will cause others to do that which they would not do otherwise. The human mind is of strange mechanism and takes queer turns at times, which passes all understanding. No one knows to the exact extent in which he has unwittingly been the cause of another committing a crime, entirely contrary to the true nature of the momentary criminal. Yet the law does not take these things into consideration when dealing with the malefactor before the bar, which is all the more reason for what might be called a psychological commission, appointed to deal with what the law fails to recognize.

Then again, reforming the prisoner cannot be done without the prisoner's consent, to gain which he must be taught that the hand of society is not against him to the extent he is led to believe, which in turn, calls for a change of attitude on the part of the public at large. It is a subject likened unto the links of an endless chain, and to gain the best results, must be recognized as such.

Personal experience through sane and insane prison rule have awakened within me the possibilities and absolute necessity of the new penology if society expects to benefit by the confinement of its criminal offenders.

In years gone by the Oregon State Penitentiary has headed the list for cruelty and brutality, having in constant use most of the instruments of torture known to man. Officials were merely following the rules laid down by their predecessors, and until the advent of B. K. Lawson, appointed warden by Governor West, in 1912. the convict was a thing to be abused and mistreated at any and all times. The prison was a hot-bed of plot and counterplot, exploitation and slave labor—a boiling, seething mass of constant cussedness ever emanating from both the prisoner and the official.

During his regime, Col. Lawson, taking a deep interest in the unfortunates under his care, abolished many of the insane customs by merely striking out a lot of nonsensical rules, and granting prisoners the right to live like human beings, and as the resulting good became evident, we began to realize the meaning of a sane administration. However, tied down by old laws, an adverse press, and a prison appropriation that left nothing but starvation for prisoners, Col. Lawson was handicapped at every turn. But he had planted the seed of reconstruction before a political change of administration forced him to retire, and to this day the old-timers often speak of Col. Lawson as a real man among men.

Then for two years we reverted back to the old System, which brought about so much strife

and turmoil, that another change was made by the appointment of Capt. Charles A. Murphy. Mr. Murphy literally turned the prison upside down, shook out the Oregon boot, the ball and chain, the dungeon and like instruments of torture, and proceeded to inaugurate a system strictly in accordance with the new penology and his own ideas of how humanity should be treated. The extremes were such that to many old prison birds, liberty spelled license, and they proceeded to ruin and betray confidence placed in them, aided by a number of guards and officials, who held their jobs through political pull, and whom, unfortunately, Mr. Murphy was unable to discharge.

After a two years' struggle, Mr. Murphy lost out, and we again settled down to the "old stuff," but in the meantime, the seed planted by Col. Lawson and cultivated by Capt. Murphy, had taken strong root, and in six months' time still another change in wardenship was made.

In the meantime Ben W. Olcott had become heir to the governorship of the State, and being well versed in prison affairs and the needs thereof, through previous capacity as Secretary of State, Governor Olcott placed Dr. R. E. Lee Steiner in temporary charge of the penitentiary, with a free hand in its administration. To say there was a house cleaning is drawing it mild, as Dr. Steiner is a born organizer, humanitarian to the last de-

gree, above all a splendid judge of human nature, and a disciplinarian of the common sense class.

At the time of Dr. Steiner's appointment, Lieut. Louis H. Compton was appointed parole officer, and since the inauguration of that office in 1911, Mr. Compton was the first man in charge in whom we ever had the least bit of confidence. After getting the kinks out of the prison tangle of politics and disruption, and further cultivating the now growing and healthy crop from the seed planted by Col. Lawson and Capt. Murphy, in a letter to the Governor, Dr. Steiner asked to be allowed to return to his life work as Superintendent of the Oregon State Hospital. Lieut. Compton, on account of his executive ability exhibited while handling the affairs of the parole office, was then duly appointed warden of the prison, which position he is filling with every effort to return to society that which it demands of its prisons—rejuvenated units, who, if they will, may hold up their heads and be men among men in spite of the past.

As the new administration was allowed a free hand in the appointment of officials and guards, Warden Compton cast about for a parole officer qualified to fill that most important position, and found just the man he needed in the individuality of Mr. Percy M. Varney. Mr. Varney was formerly chief of police, of Salem, Oregon, but his

ideas were widely at variance with those of the usual police officer and detective. A young man with progressive ideas, and a thorough student of the new school of penology, Mr. Varney is marking up a new record in the percentage of paroled men making good.

Now, the reason why I have referred to this foregoing bit of personal history, is an effort to illustrate that which has passed under my personal observation, showing the difference between the old and the new System, with the firm belief that the new System will do more for society in one year than has ever been accomplished before in ten years from any one prison.

The reason I am so confident of such results is because I know the heart of the convict and almost what he will do under certain conditions. There are no hard and fast rules by which one can manage all men alike, and to the officer able to discern the temperament of the weakling, and willing to act accordingly, to that official success is assured.

Under the new System I have known old-time prison birds to go out on parole who have spent years in various penitentiaries throughout the country, and make good for the simple reason that it was the first time in their lives that a true helping hand, shorn of all hypocrisy, had been extend-

ed to them from the upper strata of humanity. I have known "rough-necks" who seemed to be past all redemption, who formerly felt insulted at the word "employment," leave this institution under the new System, jump into a job, work like Trojans until their final discharge papers were sent them, then marry and settle down to a life of honesty and industry unexcelled by anyone. And some of them have not even waited for final discharge before picking a wife; so confident were they in their own ability, inspired by the interest of their former keepers, they have married and settled down in short order, after release from prison, and I have yet to hear of the first one of these marriages that have sought the divorce courts—a record to be envied by the righteous who have never been in prison.

The State of Oregon has a population of approximately one million people; her prison population is under three hundred, and less than it was twenty years ago when her State population was less than half the present number, and that, too, in the face of the present crime wave that has swept world-wide since the late war.

Under the old order, men left this institution hardened in every way, vowing vengeance for ill-treatment received, even though that revenge led them back to a prison cell. Recidivists numbered sixty percent in those days while the number of

recidivists from this individual prison under the new System is less than ten percent. Is further proof necessary?

As stated in a previous chapter, there is an ever-present element which might be considered almost hopeless, men who simply refuse to recognize law and order in any shape, preferring to carry on a hopeless battle of lawlessness wherever they may be. Every prison has its quota. Their mania is a species of insanity without a doubt, for no sane person would attempt the crazy stunts these misguided creatures are forever mixing in. Their place is in an aylum especially adapted to treat such freaks of humanity.

But of the normal citizen who becomes tangled in the web of misfortune and tastes the bitter dregs of prison life, there is absolutely no reason for his return to crime under the treatment of the new penology. Of the twelve wardens in charge of the Oregon penitentiary during my time of incarceration therein, the above-mentioned, four have demonstrated the possibilities of the new penology. They have blazed the trail in Oregon's dark forest of penal swamp and useless underbrush, leaving a clean path which will never be wholly obliterated even by politics. The people of Oregon have been keenly alive to the sudden changes in prison management, and coming so often they have been curious as to the reason why.

The daily press has kept them fully informed, and that information has convinced them that so far as Oregon is concerned the old System is suffering from curvature of the spine, an incurable disease that no one will attempt to doctor.

It is the public mind that must force the change in prison methods before society may expect much of its derelicts. Force prisons out of politics and place men in charge who understand humanity, for of all tasks, there is no greater than that of remaking men.

It is the old System that makes more criminals in prison than were ever made elsewhere.

THE END

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